



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

मंगलवार, 05 जुलाई, 2022 / 14 आषाढ़, 1944

हिमाचल प्रदेश सरकार

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 10th June, 2022

No. HHC/Estt.3(567)/2005.—04 days commuted leave *w.e.f.* 18-05-2022 to 21-05-2022 with permission to suffix Sunday on 22-05-2022 is hereby sanctioned, *ex-post-facto*, in favour of Smt. Urmila, Court Master of this Registry.

Certified that Smt. Urmila has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Urmila would have continued to officiate the same post of Court Master but for her proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 10th June, 2022

No.HHC/Estt.3(515)/2001.—08 days earned leave *w.e.f.* 28-05-2022 to 04-06-2022 with permission to suffix Sunday on 05-06-2022 is hereby sanctioned, *ex-post-facto*, in favour of Shri C.M.Thakur, Secretary of this Registry.

Certified that Shri C.M.Thakur has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri C.M.Thakur would have continued to officiate the same post of Secretary but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 25th June, 2022

No.HHC/Estt.3(410)/95-I.—05 days earned leave on and with effect from 28-06-2022 to 02-07-2022, with permission to suffix Sunday falling on 03-07-2022, is hereby sanctioned, in favour of Shri Subhash Dhiman, Secretary of this Registry.

Certified that Shri Subhash Dhiman is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Subhash Dhiman would have continued to officiate the same post of Secretary but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 25th June, 2022

No.HHC/Admn.3(344)/92-I.—12 days earned leave on and with effect from 04-07-2022 to 15-07-2022, with permission to prefix Sunday falling on 03-07-2022, is hereby sanctioned, in favour of Shri Vishal Shabi, Court Master of this Registry.

Certified that Shri Vishal Shabi is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Vishal Shabi would have continued to officiate the same post of Court Master but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 9th June, 2022

No.HHC/Estt.3(408)/95-I.—13 days earned leave on and with effect from 13-06-2022 to 25-06-2022 with permission to prefix second Saturday and Sunday falling on 11th & 12th June, 2022 and suffix Sunday falling on 26-06-2022 is hereby sanctioned in favour of Shri Sanjeev Layal, Secretary of this Registry.

Certified that Shri Sanjeev Layal is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Sanjeev Layal would have continued to officiate the same post of Secretary but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 9th June, 2022

No. HHC/Admn.3(338)/92-I.—20 days earned leave on and with effect from 13-06-2022 to 2-07-2022 with permission to prefix second Saturday and Sunday falling on 11th & 12th June,

2022 and suffix Sunday falling on 3-7-2022 is hereby sanctioned in favour of Shri B.L. Soni, Additional Registrar of this Registry.

Certified that Shri B.L. Soni is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri B.L. Soni would have continued to officiate the same post of Additional Registrar but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 14th June, 2022

No.HHC/Admn.3(340)/92-I.—03 days commuted leave *w.e.f.* 26-05-2022 to 28-05-2022 with permission to suffix Sunday on 29-05-2022 is hereby sanctioned, *ex-post-facto*, in favour of Shri Ram Lok Sharma, Court Master of this Registry.

Certified that Shri Ram Lok Sharma has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Ram Lok Sharma would have continued to officiate the same post of Court Master but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 16th June, 2022

No.HHC/Estt.3(628)/2009.—10 days commuted leave on and with effect from 1-06-2022 to 10-06-2022 with permission to suffix second Saturday and Sunday fell on 11-06-2022 & 12-06-2022 is hereby sanctioned, *ex-post-facto*, in favour of Smt. Rita Thakur, Deputy Registrar of this Registry.

Certified that Smt. Rita Thakur has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Rita Thakur would have continued to officiate the same post of Deputy Registrar but for her proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 16th June, 2022

No.HHC/Estt.3(678)/2009.—05 days commuted leave on and with effect from 06-06-2022 to 10-06-2022 with permission to prefix Sunday fell on 5-06-2022 and suffix second Saturday & Sunday fell on 11-06-2022 & 12-06-2022, is hereby sanctioned, *ex-post-facto*, in favour of Shri Laxman Sharma, Court Secretary of this Registry.

Certified that Shri Laxman Sharma has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Laxman Sharma would have continued to officiate the same post of Court Secretary but for his proceeding on leave.

By order,
Sd/-
Registrar General.

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the 21st May, 2022

No. Shram (A) 6-2/2020 (Awards) Dharamshala.—In exercise of the powers vested under Section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court, Dharamshala on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/ Order
1.	195/16	Balbir Singh	S.E.E. HPSEBL, Joginder Nagar	02-04-2022
2.	552/15	Sanjay Kumar	S.E.E. HPSEBL, Joginder Nagar	02-04-2022
3.	108/18	Hari Singh	D.F.O. Nachan	04-04-2022

4.	83/17	Suresh Kumar	E.E. HPSEBL, Jia	05-04-2022
5.	906/16	Balbir Singh	E.E. HPSEBL, Joginder Nagar	06-04-2022
6.	48/17	Ashok Singh	Principal, M.C.M. DAV School	07-04-2022
7.	585/16	Dila Ram	D.F.O. Kullu	08-04-2022
8.	142/16	Tek Chand	E.E. HPPWD, Sunder Nagar	12-04-2022
9.	254/15	Raj Kumar	D.F.O. Wild Life, Hamirpur	19-04-2022
10.	653/16	Lekh Raj	E.E. I&PH, Gagret	21-04-2022
11.	73/14	Tarsem Singh	D.F.O. Wild Life, Hamirpur/ Bilaspur	22-04-2022
12.	50/16	Amar Nath Sharma	E.E. HPPWD, Ghumarwin	23-04-2022
13.	49/16	Beasa Devi	E.E. HPPWD, Mandi	29-04-2022
14.	86/17	Pyar Singh	D.F.O. Chamba	29-04-2022
15.	907/16	Seema Rani	Principal, DAV School, Ambota	30-04-2022

By order,

R. D. DHIMAN,
Addl. Chief Secretary (Lab. & Emp.).

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 195/2016
Date of Institution : 26-03-2016
Date of Decision : 02-04-2022

Shri Balbir Singh s/o Shri Madan Lal, r/o Village Bag Gandehar, P. O. Bag, Tehsil Lad
Bharol, District Mandi, H.P. . . . *Petitioner.*

Versus

The Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar,
District Mandi, H.P. . . . *Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv.

For the Respondent : Shri Anand Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for
adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the
Act' for short).

“Whether alleged termination of services of Shri Balbir Singh s/o Shri Madan Lal, r/o
Village Bag Gandehar, P. O. Bag, Tehsil Lad Bharol, District Mandi, H.P. *w.e.f.* 31.01.2000
by the Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar,
District Mandi, H.P., who had worked as beldar on daily wages only for 58 days during

years, 1994-2000 and has raised his industrial dispute after more than 13 years *vide* demand notice dated 18.03.2013, without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 58 days during years, 1994-2000 and delay of more than 13 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. Upon service of the notice of the reference on the parties, the petitioner filed his statement of claim and pleaded that he was engaged as daily wage beldar *vide* muster roll No.557 on 25.12.1994 and he worked as such till 31.01.2000 though his work remained interrupted for the reason that he was disengaged time and again on the pretext that work and funds were not available to continue his engagement. As per the petitioner, his services were terminated verbally on 31.1.2000 without complying with the mandatory provisions as contained in Section 25-F (a) of the Act. The respondent is also said to have not followed the principle of '*last come first go*' at the time of termination of the services of the petitioner as Shri Prithi Chand s/o Shri Bhoop Singh, Shri Subhash Chand s/o Shri Parma Ram, Shri Safi Mohmad s/o Shri Hamid Ahemad and Shri Tara Chand s/o Shri Daya Ram who were juniors to the petitioner, were not terminated and thus such an act amounted to violation of Section 25-G of the Act. The petitioner has further claimed that not only this, Shri Piar Chand s/o Shri Sohan Singh, who was engaged on 25.2.1999 and terminated *w.e.f.* 21.4.1999, was reinstated along-with 50% back wages in the year 2005 and the petitioner was not recalled and thus the violation of provisions contained in Sections 25-G and 25-H of the Act took place. Findings all these irregularities and the injustice meted out to him, the petitioner raised his demand *vide* demand notice dated 18.03.2013 but the matter could not be settled during conciliation proceedings and finally the appropriate Government refused to make the reference on the ground that there was considerable delay in raising such a demand. The petitioner had to knock the doors of Hon'ble High Court of Himachal Pradesh to seek justice by filing Writ Petition No.165/2016, which was accordingly allowed by the Hon'ble Court and the Government was directed to make reference to this Court. As per the petitioner, he had come to know from an advertisement published in *Amar Ujala* on 19th March, 2016 that the respondent has decided to fill 710 posts of T-Mates in the Division and since his services were terminated verbally without following the provisions of law, therefore, he was entitled for reinstatement with continuity in service, seniority and full back wages.

3. The respondent has resisted and contested the claim and submitted in the reply that the services of the petitioner were infact never terminated by the department but he himself left the job without any intimation to the department and raised his demand in the year 2013 which was denied by the Government on the ground of delay. The respondent although admitted that the petitioner was engaged as daily wage beldar on 25.12.1994 but it denied that breaks were given intentionally and explained that the petitioner was himself irregular and careless with respect to his job and remained absent for days together before he finally left the job on 31.01.2000. It is pointed out that the petitioner had worked only for 30 days in between 25.12.1994 to 24.01.1995, for 18 days in between 03.01.2000 to 20.01.2000 and for 10 days in between 21.01.2000 to 31.01.2000 and thus he had worked only for 58 days, in total, in the span of 5 years. It is submitted that since the petitioner has raised the demand after more than 12 years therefore, his claim is belated and the great delay in raising the demand has not been explained hence, the petitioner was neither entitled for his reinstatement nor for continuity in service and seniority, and back wages, hence, the claim be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply. The petitioner has further highlighted fact that there was violation of mandatory provisions of the Act and fictional breaks were given to him time and again

before his final termination and he was not recalled as and when work was available, whereas, juniors to him were retained and regularized, hence, there was a merit in the petition.

5. On the pleadings of the parties, following issues were framed:—

1. Whether termination of services of the petitioner by the respondent *w.e.f.* 31.01.2000 is/was illegal and unjustified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*

Relief.

6. I have heard learned counsel for the parties at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1 : Decided accordingly

Issue No. 2 : Decided accordingly

Relief : Petition is partly allowed awarding lump-sum compensation of Rs.70,000/- as per operative part of the Award.

REASONS FOR FINDINGS

ISSUES No.1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. When the pleadings of the parties are carefully scrutinized, it is an admitted fact that the petitioner was initially engaged as daily wage beldar *vide* muster roll No. 557 on 25.12.1994 and worked till 31.03.2000. This fact is established by the Mandays chart proved on the record as RW1/B by RW1 Sh. Pravesh Kaundal, Sr. Executive Engineer. The factual dispute is with regard to the manner in which the petitioner discontinued the work, *i.e.* whether he was terminated or he abandoned the job?

10. Law is well settled on abandonment of job by a workman. In ***Express Newspaper (P) Ltd. vs. Michael Mark*** reported in ***AIR 1963 SC 1141***, the question of abandonment of employment was examined by the Hon'ble Supreme Court. This law was followed in ***G.T. Lad vs. Chemical and Fibers India Limited (Full Bench)*** reported in ***AIR 1978 SC 582***. It was held by the Hon'ble Supreme Court that in order to hold that a person has himself abandoned his job, the intention has to be inferred from the acts and conducts of the parties and it was a question of fact. This judgment of Hon'ble Supreme Court has been followed consistently till date. The Hon'ble High Court H.P. has also followed these judgments in several its judgments. In ***Narain Singh vs. State of Himachal Pradesh and Ors., Civil Writ Petition No.3634 of 2009*** decided on 21 June, 2016 it was held by the Hon'ble High Court that voluntarily abandonment of work by workman is required to be established by way of cogent and reliable evidence by the employer. The Hon'ble High Court of H.P. in another judgment titled ***State of H.P. and Anr. vs. Partap Singh*** reported in 2016

Vol.6 ILR (1314) again dealt with the plea of abandonment of job and went to the extent of saying that even if a workman has left job at his own even then the employer was not discharged from his onus. It was the duty of the employer in such situation to issue notice upon the workman asking him to resume the duties, and in case, he still does not report to his duties, some disciplinary inquiry should be conducted against him as such a conduct amounts to gross negligence. It was held that evidence to this effect has to be led by the employer. In all aforementioned cases, it was repeatedly held by the Hon'ble Courts that in case the employer does not lead any such evidence, the plea of abandonment was not established. In the case in hand, the respondent has also not led any evidence which could be termed as cogent, convincing and reliable to prove the plea of abandonment. Shri Pravesh Kaundal (RW1) in his affidavit Ext.RW1/A has merely said that the workman has abandoned his job at his own. He has not proved any notice issued to this workman after he had started absenting from his duties asking him to resume his work. Shri Pravesh Kaundal has also not produced any material on the record to suggest that since the petitioner did not join the duties even after service of notice, therefore, an inquiry was conducted and a satisfaction to the effect that the petitioner had no intention to report and resume his duties was obtained. When such is the situation the plea of abandonment as raised by the respondent has not been established.

11. When the evidence on the record is carefully examined, the petitioner has not disputed the Mandays chart tendered on record by the respondent as Ext.RW1/B. When this Mandays Chart is carefully examined it is evident that the petitioner had worked for total 58 days in between 25.12.1994 to 31.01.2000. The petitioner has not led any evidence to the contrary to show that he had worked for a period of 240 days in a calendar year preceding his termination. The petitioner has simply come up when the plea of his work remained interrupted throughout and after 31.01.2000 he was never called to resume the work. It is thus very much clear that the petitioner has not worked for a period of 240 days in a calendar year preceding his claimed termination. When such is the position there is no such violation of Section 25-F of the Act and thus neither issuance of one month's advance notice was required under the law nor the petitioner could have been paid one month's salary in advance as per requirement of the law. Thus the petitioner has failed to prove that his termination is against the provisions of Section 25-F (a) of the Act. He is not entitled for reinstatement on this ground.

12. To establish that the respondent had not terminated the services of the workmen junior to the petitioner namely S/Sh. Subhash Chand, Safi Mohmad and Tara Chand before terminating his services, the petitioner has tendered on record provisional seniority list of the workers as Ext.P1. When this document is carefully gone through it is evident that S/Sh. Subhash Chand, Safi Mohmad and Tara Chand were engaged in the year 1999, whereas, the petitioner admittedly had joined the duties in the year 1994. Since S/Shri Subhash Chand etc. had been engaged after the petitioner, therefore, their services were liable to be terminated prior to the petitioner on the principle of '*Last Come First Go*.' Since they are still in service therefore, it is clear cut violation of the provisions of Section 25-G of the Act and the petitioner is entitled for the benefit of the same. It is further clear from the aforesaid seniority list that Shri Sanjay Kumar shown at serial No.90 was engaged in the year 2002. Thus, when the services of the petitioner were terminated in the year 2000, the law mandated that he was to be reengaged prior to engaging a new/fresh hands or engaging any person who was terminated after the petitioner. Thus, there is violation of the provisions as contained in Section 25-H of the Act as it was for the respondent to offer the employment to the petitioner first and then engage others. The statement of petitioner recorded in his affidavit Ex.PW1/A is also to the same effect and there is no denial of the aforesaid fact in his cross-examination. The respondent has stressed on the plea that the petitioner has abandoned the job out of his sweet will.

13. In the aforesaid background the learned counsel for the petitioner has argued that since there is violation of Sections 25-G and 25-H of the Act, therefore, the petitioner is entitled for

reinstatement and all other consequential benefits. On the other hand, the learned counsel for the respondent has argued that there is a huge delay in raising the demand, and therefore, the petitioner cannot be reinstated in view of the settled law of the land. In order to examine the aforesaid arguments, it is necessary to examine the pleadings as the plea of delay and laches is a plea of fact and it is to be adjudicated on appreciation of the evidence led by the parties. When the reference in hand is examined carefully it is clear that a specific reference regarding the effect of delay of inordinate delay of 13 years has been made for adjudication by the appropriate Government. It is, therefore, for this court to adjudicate where the delay of 13 years in raising the demand is justified or explained by the petitioner or not. When the statement of claim is carefully gone through there is not even a single word to explain the delay of 13 years in raising the demand after the termination. In para No.9, the petitioner has submitted that he has come to know in the year 2016 that some new posts are being filled up in the department. The petitioner has stated all the facts in detail regarding engagement of other workmen in the department in the year 2002 onward. The petitioner has specifically stated about all others facts which means that he was very much aware of the position and was keeping an eye on the activities of the official acts of the respondent. The petitioner right from the beginning knew that the workmen junior to him had been retained at the cost of his seniority. The petitioner from the very beginning knew that fresh hands have been engaged by the department after his termination and he was not offered the employment prior to their engagement. All these facts show that the petitioner knew everything right from the beginning and despite of all this he slept over his valuable right and woke up from the slumber for the first time in the year 2013 and raised the demand. Thus the delay of 13 years in agitating the matter has not been explained anywhere. The law is well settled in several pronouncements even by the Hon'ble High Court of Himachal Pradesh to the effect that a workman who sleeps on his own rights cannot be ordered to be reinstated as a matter of right and in such a situation the appropriate relief is that of compensation. The Hon'ble High Court of Himachal Pradesh in ***Roop Singh vs. Executive Engineer, HPPWD, 2019 (2) ShimLC 645*** was pleased to examine the case of workman who had issued demand notice after 12½ years of his alleged retrenchment. The Hon'ble Court while discussing the entire law on the issue was pleased to observe in Para No. 9 that since the petitioner had issued the demand notice after about 12½ years of his alleged retrenchment much water had already flown under the bridge and as such the Tribunal had not committed any error while awarding compensation in lieu of reinstatement and other benefits. In ***Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019***, the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of Rs.1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in ***Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019*** was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of Rs.60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi. Thus as per the settled law there is a considerable delay in approaching the Court and raising the demand and the delay has not been explained satisfactorily. In such like case, reinstatement is not the rule but the grant of compensation is the appropriate relief that can be awarded by taking into account various factors. In the case in hand, as aforesaid, the petitioner kept sleeping over his right for 13 years despite of knowing everything and woke up from the slumber after 13 years. He had worked only for 58 days with the respondent. Taking into consideration all these facts and circumstances, he cannot be rewarded for the delay caused by his gross inaction by directing the respondent to reinstate him and grant him all other benefits and then regularized his services as such an order would amount to encourage like minded workmen to seek regular jobs with the intervention of the Court. A person who sleeps over his right cannot be rewarded by the Courts, and taking into account the law laid down by Hon'ble Supreme Court and followed by Hon'ble High Court of Himachal Pradesh in several judgments supra, it is held that the petitioner in the present case is not entitled for reinstatement and all other consequential benefits

despite of the fact that there has been violation of Sections 25- G and 25-H of the Act. He is held only entitled for compensation. Since the petitioner has worked only for 58 days and thereafter slept over his right for long 13 years, therefore a sum of Rs.70,000/- (Seventy thousands Only) shall be the appropriate amount of compensation that can be awarded to him. Both these issues are decided accordingly.

RELIEF

14. In view of my discussion on the above issues, it is held that though there had been violation of Sections 25-G and 25-H of the Act by the respondent in this case but the petitioner had raised demand after gap of 13 years and his claim has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of Rs.70,000/- (Rupees Seventy thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 2nd day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 552/2015
Date of Institution : 04-12-2015
Date of Decision : 02-04-2022

Shri Sanjay Kumar s/o Shri Parshotam Singh, r/o Village Kas, P.O. Bhararoo, Tehsil Joginder Nagar, District Mandi, H.P. . .Petitioner.

Versus

The Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar, District Mandi, H.P. . .Respondent.

Reference under section 10(1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv.

For the Respondent : Shri Anand Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the industrial dispute raised by the worker Shri Sanjay Kumar s/o Shri Parshotam Singh, r/o Village Kas, P.O. Bhararoo, Tehsil Joginder Nagar, District Mandi, H.P. before the Senior Executive Engineer, H.P.S.E.B.L., Electrical Division, Joginder Nagar, District Mandi, H.P. *vide* demand notice dated 17.06.2013 regarding his alleged illegal termination of services *w.e.f.* 01.04.2000 suffers from delay and latches? If not, Whether termination of the services of Shri Sanjay Kumar s/o Shri Parshotam Singh, r/o Village Kas, P.O. Bhararoo, Tehsil Joginder Nagar, District Mandi, H.P. by the Senior Executive Engineer, H.P.S.E.B.L., Electrical Division, Joginder Nagar, District Mandi, H.P. *w.e.f.* 01.04.2000 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. Upon service of the notice of the reference on the parties, the petitioner filed his statement of claim and pleaded that his father was a regular employee under the respondent and he had to take voluntarily retirement at the age of 56 years on medical grounds. The officers and officials of the respondent department assured the father of petitioner that the petitioner shall be engaged in the department so that family does not suffer on account of his premature retirement. Three years passed after the retirement but the petitioner was not engaged. The petitioner had to correspond with the higher authorities to make the prayer for his engagement in the department. The prayer, was however, turned down in the year 1992 and feeling compelled the petitioner had to approach Administrative Tribunal by way of O.A. No.1816/1993. While this application was pending disposal, the respondent engaged the services of the petitioner as daily wage worker on muster roll *w.e.f.* 25.3.1998 *vide* muster roll no.472. The petitioner worked as such upto 31.03.2000 with interruptions in his work and was unlawfully terminated on 01.04.2000 without complying with the provisions of the Act. The petitioner has further averred that workmen junior to him namely Shri Piar Chand s/o Shri Sohan Singh, Safi Mohmad s/o Shri Hamid Ahmed etc. were also terminated and told that since funds were not available their services shall be reengaged as and when funds are arranged. The grievances of the petitioner has been that he was never recalled by the respondent till June, 2013 when he came to know from reliable sources that services of Shri Piar Chand and Safi Mohmad were reengaged by the department in the year 2001 and 2007 and by now they were working on regular basis. The demand was raised by the petitioner on 17.06.2013 and it was forwarded to Labour Commissioner for conciliation but nothing fruitful happened and on the conclusion of the proceedings, the Labour Commissioner refused to refer the matter to the Court on the ground of delay and latches. The petitioner approached the Hon'ble High Court of Himachal Pradesh by way of Writ Petition No.3552/2015 which was allowed and Labour Commissioner was directed to refer the matter for adjudication within four weeks, and in this manner, the reference has been referred to this Court. The petitioner has submitted that his services were terminated by the respondent without complying with the mandatory provisions of the Act and the workmen junior to him were reengaged without firstly offering re-engagement to him, he was entitled for his reinstatement, continuity in service, seniority and all other consequential benefits. Apart from this he was also entitled for regularization as per the policy of the Government and since his services were terminated illegally therefore, such reliefs be granted to him.

3. The respondent department, while contesting the claim, has resisted and contested the petition and taken up the plea that petitioner had worked for 47 days in between 25.03.1998 to

07.07.1998; 27 days in between 21.10.1999 to 20.12.1999 and for 28 days in between 01.03.2000 to 31.03.2000 and thereafter left the work without informing his superiors as he was a habitual absentee which fact was evident from the Mandays Chart. The respondent has further pleaded that since the petitioner has himself abandoned the work thus he was not entitled for any relief, and moreover, no person junior to him was re-engaged by the department and the petitioner had never completed 240 days in any of the year, hence he could not be reengaged, and therefore, the claim petition be dismissed.

4. The petitioner has filed rejoinder and pleaded therein all facts already pleaded by him in the claim. He has referred to several citations in order to show that the Reference Court cannot travel beyond the scope of reference and the petitioner has not abandoned the work but his services were terminated by the respondent.

5. On the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether termination of the services of petitioner by the respondent *w.e.f.* 01.04.2000 is/was illegal and unjustified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the industrial dispute raised by the petitioner suffers from delay and latches, as alleged? . . .*OPR.*
4. Whether the claim petition is not maintainable in the present form, as alleged? . . .*OPR.*
5. Whether the petitioner has no *locus standi* and cause of action to file the present case, as alleged? . . .*OPR.*
6. Whether the petitioner is estopped by his act, conduct and acquiescence to file the claim petition, as alleged? . . .*OPR.*

Relief.

6. I have heard learned counsel for the parties at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	Decided accordingly
Issue No. 2	:	Decided accordingly
Issue No. 3	:	No
Issue No. 4	:	No
Issue No. 5	:	No
Issue No. 6	:	No
Relief	:	Petition is partly allowed awarding lump-sum compensation of Rs.80,000/- as per operative part of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. When the pleadings of the parties are carefully scrutinized, it is an admitted fact that the petitioner was initially engaged as daily wage beldar *vide* muster roll No. 472 on 25.03.1998 and worked till 31.03.2000. This fact is established by the Mandays Chart proved on the record as RW1/B by RW1 Sh. Pravesh Kaundal, Sr. Executive Engineer. The factual dispute is with regard to the manner in which the petitioner discontinued the work, *i.e.* whether he was terminated or he abandoned the job?

10. Law is well settled on abandonment of job by a workman. In ***Express Newspaper (P) Ltd. vs. Michael Mark*** reported in ***AIR 1963 SC 1141***, the question of abandonment of employment was examined by the Hon'ble Supreme Court. This law was followed in ***G.T. Lad vs. Chemical and Fibers India Limited (Full Bench)*** reported in ***AIR 1978 SC 582***. It was held by the Hon'ble Supreme Court that in order to hold that a person has himself abandoned his job, the intention has to be inferred from the acts and conducts of the parties and it was a question of fact. This judgment of Hon'ble Supreme Court has been followed consistently till date. The Hon'ble High Court H.P. has also followed the aforesaid judgments of in several its judgments. In ***Narain Singh vs. State of Himachal Pradesh and Ors., Civil Writ Petition No.3634 of 2009*** decided on 21 June, 2016 it was held by the Hon'ble High Court that voluntarily abandonment of work by workman is required to be established by way of cogent and reliable evidence by the employer. The Hon'ble High Court of H.P. in another judgment titled ***State of H.P. and Anr. vs. Partap Singh*** reported in ***2016 Vol.6 ILR (1314)*** again dealt with the plea of abandonment of job and went to the extent of saying that even if a workman has left job at his own even then the employer was not discharged from his onus. It was the duty of the employer in such situation to issue notice upon the workman asking him to resume the duties, and in case, he still does not report to his duties, some disciplinary inquiry should be conducted against him, as such a conduct amounts to gross negligence. It was held that evidence to this effect has to be led by the employer. In all aforementioned cases, it was repeatedly held by the Hon'ble Courts that, in case, the employer does not lead any such evidence, the plea of abandonment was not established. In the case in hand, the respondent has also not led any evidence which could be termed as cogent, convincing and reliable to prove the plea of abandonment. Shri Pravesh Kaundal (RW1) in his affidavit Ext.RW1/A has merely said that the workman has abandoned his job at his own. He has not proved any notice issued to this workman, after he had started absents from his duties, asking him to resume his work. Shri Pravesh Kaundal has also not produced any material on the record to suggest that since the petitioner did not join the duties even after service of notice, and therefore, an inquiry was conducted and a satisfaction to the effect that the petitioner had no intention to report and resume his duties was obtained. When such is the situation the plea of abandonment as raised by the respondent has not been established.

11. When the evidence on the record is carefully examined, the petitioner has not disputed the Mandays Chart tendered on record by the respondent as Ext.RW1/B. When this Mandays Chart is carefully examined it is evident that the petitioner had worked for total 102 days in between 25.03.1998 to 31.01.2000. The petitioner has not led any evidence to the contrary to show that he had worked for a period of 240 days in a calendar year preceding his termination. The petitioner has simply come up when the plea of his work remained interrupted throughout and after 31.01.2000 he was never called to resume the work. It is thus very much clear that the petitioner has not worked for a period of 240 days in a calendar year preceding his claimed termination.

When such is the position there is no such violation of Section 25-F of the Act and thus neither issuance of one month's advance notice was required under the law nor the petitioner could have been paid one month's salary in advance as per requirement of the law. Thus the petitioner has failed to prove that his termination is against the provisions of Section 25-F (a) of the Act. He is not entitled for reinstatement on this ground.

12. To prove the fact that the respondent has violated the conditions of the provision under section 25H, the petitioner has stated on oath in his affidavit Ext. PW1/A that S/Sh. Piar Chand, Safi Mohmad and Tara Chand were junior to him and their services were also terminated after him, yet they were reengaged prior to him and he was not offered the work. The petitioner has tendered on record Provisional Seniority list of the workers as Ext.P1. When this document is carefully gone through it is evident that S/Sh. Piar Chand, Safi Mohmad and Tara Chand were engaged in the year 1999, whereas, the petitioner admittedly had joined the duties in the year 1998. Since S/Shri Subhash Chand etc. had been engaged after the petitioner, and their services were also terminated after him, therefore, the petitioner should have been given priority in the matter of re engagement. It is thus a proved fact on the record that the workmen junior to the petitioner were reengaged prior to him after their retrenchment, whereas, the petitioner was not called upon to join the work.

13. In the aforesaid background the learned counsel for the petitioner has argued that since there is violation of Section 25-H of the Act, therefore, the petitioner is entitled for reinstatement and all other consequential benefits. On the other hand, the learned counsel for the respondent has argued that there is a considerable and gross delay in raising the demand, and therefore, the petitioner cannot be reinstated in view of the settled law of the land. In order to examine the aforesaid arguments, it is necessary to examine the pleadings and the evidence as the plea of delay and laches is a plea of fact and it is to be adjudicated on appreciation of the evidence led by the parties. When the reference, in hand, is examined carefully it is clear that a specific reference regarding the effect of inordinate delay of 13 years has been made for adjudication by the appropriate Government. It is, therefore, for this court to adjudicate where the delay of 13 years in raising the demand is justified or explained by the petitioner or not. When the statement of claim is carefully gone through there is not even a single word to explain the delay of 13 years in raising the demand after the termination. Petitioner is proved to have neither approached the respondent for 13 years. He has never corresponded to raise an objection as to how the junior to him were reengaged prior to him. All these facts show that the petitioner knew everything right from the beginning and despite of all this he slept over his valuable right and woke up from the slumber for the first time in the year 2013 and raised the demand. Thus the delay of 13 years in agitating the matter has not been explained anywhere. The law is well settled in several pronouncements even by the Hon'ble High Court of Himachal Pradesh to the effect that a workman who sleeps on his own rights cannot be ordered to be reinstated as a matter of right and in such a situation the appropriate relief is that of compensation. The Hon'ble High Court of Himachal Pradesh in **Roop Singh vs. Executive Engineer, HPPWD, 2019 (2) ShimLC 645** was pleased to examine the case of workman who had issued demand notice after 12½ years of his alleged retrenchment. The Hon'ble Court while discussing the entire law on the issue was pleased to observe in Para No. 9 that since the petitioner had issued the demand notice after about 12½ years of his alleged retrenchment much water had already flown under the bridge and as such the Tribunal had not committed any error while awarding compensation in lieu of reinstatement and other benefits. In **Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019**, the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of Rs.1 lac's. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in **Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019** was pleased to hold in the similar manner and the award of the Tribunal whereby

compensation of Rs.60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi. Thus as per the settled law there is a considerable delay in approaching the Court and raising the demand and the delay has not been explained satisfactorily. In such like case, reinstatement is not the rule but the grant of compensation is the appropriate relief that can be awarded by taking into account various factors. In the case in hand, as aforesaid, the petitioner kept sleeping over his right for 13 years despite of knowing everything and woke up from the slumber after 13 years. He had worked only for 102 days with the respondent. The petitioner has proved on the record the Demand Notice Ext. PW1/B in which he has simply stated that he has come to know from the seniority list in the month of May 2013 that the persons junior to him have been reengaged. This is not sufficient to condone the delay of 13 years. He is resident of the same area and he has not bothered to know about the actual position for 13 years. The petitioner has tendered on record the copy of order by Labour Commissioner Ext. PW1/C, copy of judgment of Hon'ble High Court of Himachal Pradesh Ext. PW1/D, copy of family register of petitioner Ext. PW1/E, another seniority list Ext. PW1/F, application Ext. PW1/G and the information under RTI Ext. PW1/H. These documents in no manner justify the delay in raising the demand and these documents cannot in any manner be taken to hold that the petitioner is entitled for reinstatement and he was prevented by a sufficient and reasonable cause from not approaching the authorities promptly with his grievances. The inordinate delay on his part has frustrated the claim of the petitioner so far as his reinstatement is concerned. He is only entitled for compensation in view of the settled law. Taking into consideration all these facts and circumstances, he cannot be rewarded for the delay caused by his gross inaction by directing the respondent to reinstate him and grant him all other benefits and then regularized his services as such an order would amount to encourage erring workmen to seek regular jobs with the intervention of the Court for their own fault. A person who sleeps over his right cannot be rewarded by the Courts, and taking into account the law laid down by Hon'ble Supreme Court and followed by Hon'ble High Court of Himachal Pradesh in several judgments *supra*, it is held that the petitioner, in the present case, is not entitled for reinstatement and all other consequential benefits despite of the fact that there has been violation of Sections 25-H of the Act. He is held only entitled for compensation. Since the petitioner has worked only for 102 days and thereafter slept over his right for long 13 years despite of the fact that Sh. Piar Chand, a junior to him was reengaged in the year 2011 itself therefore a sum of Rs.80,000/- (Eighty thousands Only) shall be the appropriate amount of compensation that can be awarded to him. All these issues are decided accordingly.

ISSUES No. 4 to 6

14. In view of the findings while dealing issues No. 1 to 3, it is held that petition is maintainable and petitioner has locus standi and cause of action in his favour and he is not estopped from filing the petition as the relief has molded for compensation in view of the settled law. Issues Nos. 4 to 6 thus are held against the respondent.

RELIEF

15. In view of my discussion on the above issues, it is held that though there had been violation of Section 25-H of the Act by the respondent in this case but the petitioner had raised demand after gap of 13 years and his claim has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of Rs.80,000/- (Rupees Eighty thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 2nd day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 108/2018
Date of Institution : 29-12-2018
Date of Decision : 04-04-2022

Shri Hari Singh s/o Shri Puran Chand, r/o Village Nalwagi, P.O. Khola Nal, Sub-Tehsil Bali Chowki, District Mandi, H.P. . .Petitioner.

Versus

The Divisional Forest Officer, Nachan Forest Division, Gohar, District Mandi, H.P. . .Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv.

For the Respondent : Shri Vivek Dogra, Ld. ADA

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether time to time termination of daily wages services of Shri Hari Singh s/o Shri Puran Chand, r/o Village Nalwagi, P.O. Khola Nal, Sub-Tehsil Bali Chowki, District Mandi, H.P. during year, 2009 to 30-06- 2017 and final termination *w.e.f.* 01-07- 2017 by the Divisional Forest Officer, Nachan Forest Division, Gohar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The petitioner has pleaded in his petition that he was engaged by the respondent on daily wage basis as forest worker/beldar without appointment letter in December, 2008 and he had

interrupted work till September, 2017 whereafter he was disengaged without any reason. He has further submitted that sometimes payment was made to him through bills/ vouchers and sometime on muster roll and he was given fictional breaks so as to prevent him from completing 240 days in one year and such an act amounted to unfair labour practices. The grievance of the petitioner is that he was not given any compensation at the time of his retrenchment and there is violation of Section 25-F as well as 25-G and 25-H of the Act as persons junior to him are still working with department. In this background the petitioner has prayed for his reinstatement along-with all benefits.

3. The respondent has resisted and contested the petition and explained that the services of the petitioner were engaged on bill basis in December, 2008 as fire watcher which is seasonal work and as per the department's clear cut instructions this work was to be carried out on bill/tender basis.

It is further pleaded that there are the instructions by the Government to not to engage any workman as daily wage without prior approval of Finance Department, hence, there was no question of engaging the petitioner as daily wagger when no such approval was obtained. The petitioner is said to have worked for the years 2014 to 2016 under MNREGA scheme on muster roll basis for Soil Conservation and there was no question of completion of 240 days in each calendar year as he was not a daily wage beldar. The respondent denied other allegations and submitted that there was no question of giving fictional breaks as the work was seasonal in nature. The respondent has thus prayed that the claim is without any base and it be dismissed as such.

4. The petitioner has filed rejoinder and emphasized that the Court cannot travel beyond the scope of the reference and, on merits, it was pleaded that there had been changed in the terms and conditions of services as earlier he was engaged on bill basis and later on he was made to work on muster roll. It is further submitted that no notification showing the nature of the work as seasonal has been placed on the record, and thus there is a clear cut violation of the provisions of the Act, and therefore, the petitioner's claimed is meritorious.

5. On the pleadings of the parties, following issues were framed on 07-9-2020:—

1. Whether time to time termination of services of the petitioner during the year, 2009 till 30-06-2017 and final termination w.e.f. 01-07-2017 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR*.

Relief.

6. I have heard learned counsel for the parties at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	No
Issue No. 2	:	decided accordingly.
Issue No. 3	:	decided accordingly.

Relief : Petition is dismissed per operative portion of the award.

REASONS FOR FINDINGS

ISSUE No.1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The learned counsel for the petitioner has argued that this Court cannot travel beyond the scope of reference is thus not competent to adjudicate the plea that the respondent was engaged on bill basis. He has argued that since the reference is with regard to the time to time termination and final termination of the petitioner as a daily wage, therefore this Court can only adjudicate the fact as to whether the time to time, and then the final termination of the petitioner is in violation of the mandatory provisions of the Act or not? On the other hand, the learned Assistant District Attorney for the respondent has argued that it has been the case of the respondent right from the very beginning even before the Conciliation Officer that the petitioner was engaged on bill basis and he was never engaged as a daily wage, hence, it is for the Tribunal to adjudicate this plea as such an adjudication is implied in the Reference itself.

10. While going through the Reference under discussion it becomes clear that this court has been asked to adjudicate as to whether the time to time termination of daily wage services of Shri Hari Singh and later his final termination has been without complying with the provisions of the Act? Admittedly, the Reference speaks of termination of daily wage services of Shri Hari Singh. The only question that arises whether this Court can adjudicate the plea as taken by the respondent in the reply or not? When the claim petition is carefully examined it is clear that the petitioner has not come with the plea that his status as daily wage worker was never disputed by the respondent even before the Conciliation Officer. When the rejoinder was filed by the petitioner, he again did not plead that the respondent for the first time has come up with the case before the court only that the services of the petitioner were engaged on bill basis and he was not a daily waged worker. It may be stated here that Conciliation Officer does not enter into merits of the claim but once he finds prima-facie that the industrial dispute exists, he refers the matter to the Court and it is thus the court to finally adjudicate the dispute. In case the Reference finds mentions of the daily wage services it does mean that it is admitted fact that the petitioner is a daily waged worker. It simply means that the disputed question was raised before the Conciliation Officer and when the conciliation did not take place by the efforts made by him, he referred the same for adjudication to the Labour Court. Once the Reference has been forwarded to this Court, it is for this Court to examine the pleadings and the material and give wide interpretation to the Reference and the Reference can not be literally interpreted. Since the respondent has been taking the plea that the petitioner was working on Bill basis from the very inception, therefore adjudication regarding his status is implied in the Reference and it is for the Reference Court to find out whether the petitioner is proved to be a daily waged beldar or the respondents are able to establish that he was employed on bill/vouchers basis. Thus the very first arguments as raised on behalf of the petitioner that the Court cannot be adjudicate the plea of the respondent to the effect that the services of the petitioner were engaged on bill basis cannot be adjudicated by the Court is liable to be rejected and it is held that the reference has to be examined from all the angles and findings are required on the respective pleas as raised by the parties.

11. The next question this Court is supposed to adjudicate is as to whether the petitioner is proved as daily waged beldar or having worked on bill basis? The petitioner has himself stepped into witness box as PW1 and sworn his affidavit Ext.PW1/A stating that he was initially engaged on daily waged basis in the year 2008 and worked as such till September, 2017 with fictional breaks. When he was subjected to cross-examination, he admitted categorically that he was engaged

as '*Fire Watcher*' by the department in the year 2009. He further admitted that he had worked in the capacity of Fire Watcher from the year 2009 till 2017. He even admitted that the work as the Fire Watcher is done in the summers. He even volunteered to explained that the work commences from 15 April to 15 July. The respondent has also come up with the plea that it was a seasonal work and it accrues only during the summer season. Shri T.R. Dhiman, Divisional Forest Officer, Nachan has appeared as RW1 and sworn his affidavit Ext.RW1/A. He has tendered on record a notification Ext. RW1/ B by Government of Himachal Pradesh wherein all the departments have been directed to not to engage daily wage workers without seeking the approval of Finance Department of Himachal Pradesh. It is further stated therein that bill/tender system is being introduced and the departments can get the work upto Rs.1 Lakh be executed on bill basis without calling for the quotations. It is also mentioned in the same that works above Rs.1 Lakhs and upto Five Lakhs shall be done on calling for the quotations and for the works exceeding Five Lakhs, tenders shall be floated. This letter is dated 28.04.2009 and the services of the petitioner were engaged thereafter as such there was no question of flouting the directions of the Government by engaging the services of the petitioner as daily wagger. The respondent has tendered on record details of the payment made to the petitioner. This document is Ext.RW1/CA. It is very much clear that the services of the petitioner were engaged for the first time in 4th May, 2009 and he had worked only for 28 days and was paid at the rate of Rs.110/- per day total Rs.3080/-. He thereafter worked in the same capacity from 01.06.2009 to 30.6.2009 and from 1.7.2009 to 15.7.2009 total for 73 days. It is very much clear from the bare perusal of the document that it is seasonal work which commenced from May 2009 to 15 July, 2009. Similar are the working details of the year 2010. The petitioner had worked on bills as Fire Watcher w.e.f. 4th May, 2010 to 31.10.2010 and from 01.06.2010 to 30.06.2010. Similar pattern has been followed in the year 2011. It is very much clear from this document that the work was taken from the petitioner only in summers commencing from the month May till July every year. It is therefore, a seasonal work. It is very much clear from the bare perusal of this document that it was only a seasonal work. Had the work of Fire Watcher had not been seasonal, the department would have taken the same work from other person during the rest months of the year. It was for the petitioner to plead such fact and lead evidence before the Court to show that another person was engaged as Fire Watcher by the department during the rest of the months every year. It was for the petitioner to cause the production of such document of department so that he could prove that the department acting mala fide by giving him the fictional breaks. No material has been proved by the petitioner on the record to support his case. He has rather himself admitted in his cross-examination that it was a seasonal work and it commenced during summers alone. In these facts and circumstances statement of Shri T.R. Dhiman in his affidavit as well as cross-examination is sufficient to prove that it was seasonal work and it was done on bill basis.

12. When it is established on the record that the nature of the work for which the petitioner was engaged work seasonal and was accomplished in between May and July every year, it is but natural that no further work could be given to the petitioner during the rest of the months of year. Therefore, there was no question of giving fictional breaks. Rather work was seasonal and once the fire season was over there was no question of retaining the services of the petitioner. It is clear from Ext. RW1/CA that the petitioner was engaged on bill basis right from the year 2009 till 2014. In the year 2015, the petitioner has not worked with the department on Bill basis and in the years 2016 and 2017 he again worked on bill basis. There is another document Ext.RW1/CB which shows that in the year 2014 from 01.10.2014 to 16.10.2014 the petitioner has worked on muster roll for 14 days. In the year 2015 he had worked from 07 June 2015 to 20 June 2015 for 13 days and from 8.10.2015 to 31.10.2015 for 14 days on muster roll basis. Similarly in the year 2016 he has worked in the month of July and December for 28 days. This document carefully examined, it is clear that this work was under MNREGA Scheme. The petitioner has also not claimed that this work on muster was not in MNREGA Scheme. It is clear from the MNREGA Act that the purpose of generating employment under MNREGA scheme is to ensure that those workmen who are

willing to work and have their job cards shall be given guarantee of minimum 100 days work in one year so that they are able to earn and live a dignified life. MNREGA Scheme does not provide for unending work and no person gets any right to remain in employment by working in MNREGA Scheme as person cannot be claimed more than 100 days of work as a matter of right. In MNREGA Scheme once the work is over the matter ends. The work under MNREGA Scheme does not survive for years together and no person can claim that since he has worked under MNREGA Scheme, therefore, his services could not be terminated. Infact there is no question of termination of the services in MNREGA Scheme, rather, the work under this scheme comes for specific period of days and once work is over the employment automatically ceases. In case, the petitioner has worked for few days in the time span of three years on muster roll in MNREGA Scheme he cannot claim that his services could not be terminated without following the provisions of the Act. As aforesaid, the question of termination does not arise in MNREGA work at all and the services of the labourers are automatically disengaged once the work is complete. The learned counsel for the petitioner has argued that there has been change of the work of the petitioner by the respondent without his consent and there is a violation of Section 9-A of the Industrial Disputes Act. This argument is also of no avail as the petitioner is not proved to be a daily wager labourer with the department but he had worked on bill basis as held hereinabove. No right accrues to him in terms of the provisions of Sections 25-F, 25-G and 25-H of the Act while by working on bill basis. It is true that he had also worked on muster roll in the time span of three years after he was initially engaged on bill basis yet as aforesaid work was under MNREGA Scheme and it was not the work of department hence he could not get benefits available under the Industrial Disputes Act. Thus neither the petitioner is able to get any benefit by change of work under Section 9-A nor he is proved to be a daily waged worker. Rather, it is proved on the record from the material that since that his services were engaged on bill basis for a particular season every year and the engagement continued only for three months every year as is clear from the documents proved on the record. There is no material on the record to suggest that the petitioner was engaged on daily wage basis and fictional breaks intentionally were given to him in order to avoid him to complete 240 days in a calendar year. Infact the work was seasonal and once the season ended within three months no more work was thereafter until the next season. The question of fictional breaks does not arise and no benefits of provisions of Industrial Disputes can be granted to the petitioner in the given facts and circumstances for the reason discussed hereinabove in detail.

13. In view of the aforesaid discussion it is held that the work was seasonal in nature and the petitioner was engaged on bill basis by the respondent every year for three months and the services were automatically discontinued with the end of the fire season, hence neither the fictional breaks were given to him nor there is violation of the provisions of Sections 25-F, 25-G and 25-H of the Act as the respondent department has filed and proved on record the seniority list Ext. RW1/D showing that there had been no deployment of daily wage beldar in the department after 30 April 2008 on account of the instructions of Government of Himachal Pradesh. In views of the above discussions, the issues no. 1 and 2 are answered in negative and against the petitioner.

ISSUE No. 3

14. It is held that petition is maintainable as it is reference made by the appropriate Government and filing of the petition is the requirement to answer the reference. Hence, this issue is decided against the respondent.

RELIEF

15. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 4th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 83/2017
Date of Institution : 28-03-2017
Date of Decision : 05-04-2022

Shri Suresh Kumar s/o Shri Suju Ram, r/o Village & Post Office Jia, Tehsil Palampur,
District Kangra, H.P. . . *Petitioner.*

Versus

The Executive Engineer, Baner Power House, H.P.S.E.B Division, Jia, District Kangra,
H.P. . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Umesh Nath Dhiman, Ld. Adv.
For the Respondent : Shri Anand Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Suresh Kumar s/o Shri Suju Ram, r/o V.P.O. Jia, Tehsil Palampur, District Kangra, H.P. w.e.f. 16-11-1999 (as alleged by the workman) by the Executive Engineer, Baner Power House, H.P.S.E.B. Division, Jia, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner in his claim has averred that his services were engaged as a Driver on contract basis by the respondent in the year 1999 and were terminated on 16.11.1999 within five

months of his joining for the reasons best known to the respondent. The petitioner approached the officers of the respondent time and again but he was not re-engaged, whereas, the workmen junior to him were retained and fresh hands were also engaged later in time, which act on the part of the respondent is in violation of Sections 25-F, 25-G and 25-H of the Act. The petitioner has also submitted that he had also met with an accident and was tried, convicted and finally acquitted by the Courts in appeal, and since his services have been terminated without following the provisions of the Act, therefore, he be reinstated with continuity in service along with all consequential benefits.

3. The respondent has resisted and contested the petition on the plea that petitioner was neither engaged as daily wage worker nor on contract basis but he had worked with the department in the year 1999 for 144 days on hand receipt and work contracts. Further case of the respondent is to the effect that the petitioner is not a temporary workman under the provisions of the Act and his claim is not maintainable as the petitioner has left the work at his own and was never terminated. No workmen junior to him were retained and no fresh hands were employed. The petitioner is said to have approached the Court after a delay of 20 years which is not explained, and therefore, the petitioner is not entitled for any relief as his claim has become stale, belated and it has faded away with the passage of time. Moreover, he had never completed 240 days in any year. On such averments, the respondent has prayed for dismissal of the petition.

4. Rejoinder was not filed by the petitioner.

5. On the pleadings of the parties and keeping in mind the crux of the reference, following issues were framed for determination on 20.7.2019:—

1. Whether termination of services of the petitioner *w.e.f.* 16-11-1999 by the respondent is/was illegal and unjustified, as alleged? ..OPP.
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable, as alleged? ..OPR.
4. Whether the claim petition suffers from the vice of delay and laches, as alleged? ..OPR.
5. Whether the petitioner has no cause of action to file the petition, as alleged? ..OPR.
6. Whether the petition is bad on account of non-joinder and mis-joinder of parties, as alleged? ..OPR.

Relief.

6. I have heard learned counsel for the parties at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	No
Issue No. 2	:	Decided accordingly
Issue No. 3	:	Yes

Issue No. 4	:	Yes
Issue No. 5	:	Yes
Issue No. 6	:	No

Relief : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1, 2 & 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has examined himself as PW1 by tendering his affidavit Ext.PW1/A. He was also subject to cross-examination. The respondent, on the other hand, has examined Er. Amit Patial as RW1 and he has tendered his affidavit Ext.RW1/A. He has also tendered in evidence Mandays Chart Ext.RW1/B. The contents of the Mandays Chart are not disputed and perusal thereof show that the petitioner has worked for total 144 days as a Driver in intervals either on work orders or on Hand Receipts in between May, 1999 to November, 1999. If the petitioner is presumed as daily wage worker even then he has not completed 240 days in the preceding twelve calendar months before his alleged termination. He has neither pleaded nor proved that he was given fictional breaks with a view to prevent him from completing 240 days in the calendar year. When the petitioner has not completed 240 days as aforesaid, certainly there is no violation of Section 25-F(a) of the Act and issuance of notice or payment of compensation could be insisted, in case, the working days of the petitioner would have been 240 days or more before his termination.

10. The respondent has taken up the plea of abandonment of the work by the petitioner in the reply and Er. Amit Patial RW1 has stated about this fact on oath in his affidavit Ext.RW1/A. The petitioner on the other hand, has alleged his termination. The respondent has not led any evidence on the record to show that once the petitioner had left the job at his sweet will a notice was served upon him asking him to join the duties forthwith. No evidence has been led on the record to the effect that despite of being asked to join his duties time and again the petitioner did not join and the inquiry was, therefore, conducted and he was found gross negligent. Law is well settled in various judgments of Hon'ble High Court of Himachal Pradesh on the plea of abandonment. Reference may be made in **State of Himachal Pradesh and anr. vs. Guddi Devi and anr.** in **CWP No.2196/2016 decided on 28.6.2019** wherein similar plea was raised before the Hon'ble High Court and the plea was dealt in para 17 of the judgment by the Hon'ble Court and it was held that neither any notice was proved to have been served upon the workman nor any explanation was called for. In the case in hand, the respondent has failed to prove the plea of abandonment of job by the petitioner.

11. Though the respondent has failed to prove abandonment of job by the petitioner yet the petitioner has also not proved that he was terminated by the respondent by retaining the junior to him. He has also not proved that fresh hands were employed after his termination without giving him priority. The claim of the petitioner has been visited by the undue delay and there is no explanation whatsoever on the record to justify the same. The petitioner has alleged his termination in November, 1999 and he had approached the Labour Officer after a gap around 10 years as said by him. The reference is dated 14 March, 2017 and 17 years have passed in the meantime. The petitioner has not placed on record the copy of demand raised by him to make this Court believe that he has raised the demand on time and there was inaction on the part of Labour Commissioner to forward the reference to this Court. Had the petitioner been actually terminated by the respondent in the year 1999, he would have been immediately approached the labour department

with a complaint or raised the demand as he himself claims that junior to him were retained and fresh hands were also employed. Since the petitioner slept over his right for more than 10 years it is but natural that he had himself left the work though it is technically not proved that he has abandoned the job but conduct of the petitioner has been such that he never approached the authorities at the earliest with his grievances. Otherwise also, no seniority list of the employees has been proved on the record nor to show that any workman junior to him was retained by the department at his cost. No document has been placed on the record to show that any other person was engaged by the department after him without giving him the priority. Thus there is no breach of the provisions contained in Sections 25-G and 25-H of the Act. The petitioner has although tendered on record the disability certificate of his daughter Ext.PW1/B yet no relief can be granted in his favour for the reason that he has failed to prove that there had been breach of mandatory provisions of the law. The petitioner has tendered on record his driving licence Ext. PW1/C and copy of the judgment whereby he was acquitted of the accusation yet these documents have no direct bearing on the issue involved.

12. Thus, for the aforesaid reasons the petitioner has failed to prove that his services were terminated by the respondent without complying with the provisions of the Act. Thus the petitioner is neither entitled for reinstatement nor any consequential benefits including the compensation. The petition is also held to have suffered on account of delay and laches. Issues No. 1 and 2 are held against the petitioner and issues No.4 in favour of the respondent.

ISSUES No. 3, 5 and 6

13. Since no violation of the provisions of Sections 25-F, 25-G and 25-H of the Act is established, therefore, the petitioner has no cause of action and the petition is not maintainable. Issues No.3 and 5 are answered in favour of the respondent. As the respondent has failed to point out as to which party has not been joined in the reference, therefore, this issue is held against the respondent.

RELIEF

14. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 5th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 906/2016

Date of Institution : 24-12-2016
Date of Decision : 06-04-2022

Shri Balbir Singh s/o Shri Roshan Lal, r/o Village Kufru, P.O. Bassi, Tehsil Joginder Nagar, District Mandi, H.P. . *Petitioner.*

Versus

The Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar, District Mandi, H.P. . *Respondent.*

Reference under section 10 (1) of the Industrial Dispute Act, 1947

For the Petitioner : None for the petitioner
For the Respondent : Shri Anand Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication:

“Whether alleged termination of the services of Shri Balbir Singh s/o Shri Roshan Lal, r/o Village Kufru, P.O. Bassi, Tehsil Joginder Nagar, District Mandi, H.P. *w.e.f.* 25-12-1996 by the Senior Executive Engineer, Electrical Division, H.P.S.E.B. Limited, Joginder Nagar, District Mandi, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated 13-02-2015 after delay of more than 18 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period during year 1996 for 51 days respectively and delay of more than 18 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The petitioner has averred in his statement of claim that he was engaged as daily wage beldar under Electrical Division, Joginder Nagar in the year 1996 and worked as such till 31.3.2000 with sincerity and hard work. He was given fictional breaks by the respondent on the pretext of non-availability of work and at the time of his termination he was assured that whenever work will be available, his services shall be re-engaged. The respondent is said to have violated the principle of ‘*Last Come First Go*’ by retaining the workmen namely S/Sh. Gulab Singh, Hari Singh, Chet Ram, Pratap Chand, Raj Kumar, Ramesh Kumar etc., who are junior to the petitioner. The respondent also engaged new workmen after the termination of the petitioner without firstly engaging the petitioner. The petitioner has submitted that he served a demand notice on 12.3.2009 upon the competent authority but he was informed on 19.11.2009 that since he had not completed 240 days in preceding twelve months prior to his termination and there was no justification of making the reference. The petitioner came to know that on similar facts reference was forwarded to this Court in respect of Shri Shyam Singh, therefore, the petitioner again submitted his demand notice to the respondent and in this manner the reference was made. The petitioner has submitted that his termination is against the fundamental principles of the Act as the juniors have been retained at the time of his termination and fresh hands were also engaged without engaging him firstly. In the aforesaid backdrop, the petitioner has prayed that his termination is bad

in the eyes of law, and therefore, the same be quashed and he be ordered to be re-engaged along-with all the consequential benefits.

3. The respondent has resisted and contested the claim and taken up the plea of maintainability, cause of action, locus standi, estoppel, claim being barred under Order 2 Rule 2 CPC and Section 11 CPC. On merits, the respondent has admitted that the services of the petitioner were engaged as a daily rated beldar under muster roll No.391 *w.e.f.* 04.11.1996 to 24.11.1996 and thereafter under muster roll No.431 dated 25.11.1996 to 24.11.1996 total for 51 days. As per the respondent, the services of the petitioner were not terminated but his employment was only for 51 days for a specific work and as soon as the work was completed the services also came to an end. The claim is said to be hopelessly time barred. It is submitted that the petitioner has wrongly and in a distorted form presented the facts, and therefore, his claim is liable to be rejected.

4. Rejoinder was not filed and from the pleadings of the parties and keeping the reference in mind following issues are framed for determination on 18.2.2020:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent *w.e.f.* 25-12-1996, as alleged. If so, its effect? . . .*OPP.*
2. Whether the claim is not maintainable, as alleged? . . .*OPR.*
3. Whether the petitioner has no locus standi and cause of action to file the present case, as alleged? . . .*OPR.*
4. Whether the petitioner is estopped to file the present claim by his act and conduct, as alleged? . . .*OPR.*
5. Whether the claim petition is barred under Section 11 and Order 2 Rule 2 C.P.C., as alleged? . . .*OPR.*

Relief.

5. I have heard learned counsel for the respondent at length and considered the material on record.

6. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	Discussed
Issue No. 2	:	Discussed
Issue No. 3	:	Discussed
Issue No. 4	:	Discussed
Issue No. 5	:	Discussed
Relief	:	Petition is dismissed.

REASONS FOR FINDINGS

ISSUE No. 1

7. It may be stated at the very beginning that the petitioner obtained several opportunities to lead evidence and no evidence was ultimately led. The learned counsel appearing for the

petitioner Shri Rajinder Thakur although pursued the matter on different dates but when he could not procure the evidence, he pleaded no instruction on 19.2.2022 after availing more than six opportunities. Still notice was issued to the petitioner asking him to appear before the Court on 1st April, 2022. The notice was duly served upon him but he did not put his appearance. Taking into account all these development this Court was left with no option but to proceed against *ex parte* against the petitioner, as the reference could not be dismissed in default but it has to be answered. Since the petitioner has not appeared despite of specifically notified of the date it appears that he is not interested in pursuing the claim. It further appears that petitioner does not want to work in the department and he has settled somewhere else. It is for this reason that he did not appear before the Court on more than six dates when he was given opportunity to lead evidence. It further appears that when his counsel failed to procure the presence of the petitioner, therefore, he also pleaded no instructions. Despite of all these facts, this Court issued notice for the petitioner asking him to put his appearance before the Court on 1st April, 2022 and the petitioner still did not appear despite of having been served personally. The conduct of petitioner is thus indicative of the fact that he has lost his interest in the litigation and is not pursuing the same. Therefore, this court is left with no option but to answer the Award on the basis the material available with it.

8. It is basic law that whatever is pleaded the same has to be proved by leading evidence and only then the pleadings become admissible and can be relied upon by the Court. When no evidence is led by the petitioner, the contents of the petition are not proved and, therefore, no relief can be granted to him. In the case in hand, since the petitioner has neither appeared as witness in the witness box nor examined any other witness, therefore, it is not proved that his services were illegally terminated and juniors to him were retained. The petitioner has not led any evidence on the record to prove that the respondent has engaged fresh hands after the termination of the petitioner without affording him an opportunity to work, hence, the petitioner is not entitled for the relief as claimed by him. Issue No.1 is held against the petitioner.

ISSUES No. 2 to 5

9. Since no evidence has also been led by the respondent, therefore, these are not established. Otherwise also, the petitioner has to stand on his own legs and not on the weakness of the adversary. Since the petitioner has himself not led evidence, therefore, he is not entitled for the relief claimed and the reference is answered in negative. Issues No. 2 to 5 are answered against the petitioner. Parties are left to bear their costs.

10. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 48/2017
Date of Institution : 24-01-2017
Date of Decision : 07-04-2022

Shri Ashok Singh s/o Shri Mangat Ram, r/o Village Baghni, P.O. Khushinagar, Tehsil Nurpur, District Kangra, H.P. . *Petitioner.*

Versus

The Principal, M.C.M.D.A.V. Senior Secondary Public School, Baghni (Nurpur), District Kangra, H.P. . *Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rahul Sharma, Ld. Adv.

For the Respondent : Shri R.S. Rana, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

"Whether termination of services of Shri Ashok Singh s/o Shri Mangat Ram, r/o Village Baghni, P.O. Kushinagar, Tehsil Nurpur, District Kangra, H.P. who was employed as school bus driver *w.e.f.* 28- 11-2015 by the Principal, M.C.M.D.A.V. Senior Secondary Public School, Baghni (Nurpur) District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. The petitioner has pleaded in his statement of claim that he was engaged as a Driver by the respondent to drive the school bus on daily wages in the year 1995 and was verbally disengaged on 28.11.2015 after more than 22 years of continuous service by retaining junior daily wagers/drivers, and thus, principles of Section 25-G of the Act were flagrantly violated. Not only this, after the disengagement of the petitioner, fresh hands were engaged as school drivers and the petitioner was not even given a notice required under the law before his termination despite of the fact that he had already completed 240 days in each calendar year during his tenure. According to him, he is presently out of job and since his disengagement was in contravention to the fundamental provisions of the Act, therefore, his reinstatement be ordered with all the consequential benefits.

3. The respondent school has resisted and contested the claim on the plea that the services of the petitioner were purely on temporary basis and he had not completed 240 days of continuous service. It is further case of the respondent that the petitioner was never disengaged but he voluntarily resigned from the job by posting his resignation letter through registered post, hence, he had neither any cause of action nor was entitled for any relief, as resignation does not amount to retrenchment for the purpose of the Act. It is further explained that there are as many as seventeen drivers in the school but the conduct and behaviour of the petitioner was not upto the mark as he

used to come late for his duties; did not bother about anything, drove the bus beyond his approved route and also refused to drive other vehicles when his bus broke down on account of mechanical issues. All emoluments of the petitioner are said to have been released and the conduct of the petitioner in resigning without one month's notice was also not appreciable as there was scarcity of drivers and it was not possible to engage a new driver at once and thus great inconvenience was caused to the children on account of non-availability of the conveyance. Denying other allegations as incorrect, the respondent has prayed for dismissal of the claim.

4. The petitioner filed rejoinder and reaffirmed the averments so made in the petition and stressed upon the fact that he had completed more than 243 days in twelve calendar months preceding his verbal disengagement in November, 2015 and neither statutory notice was served upon him nor statutory compensation was paid. He further explained that he had never tendered his resignation but a blank signed paper obtained by the school in the past in a routine manner in good faith was converted into his resignation in order to illegally terminate him. He further pointed out that he remained without any work and was not operating his personal transport as alleged.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 05.08.2018 for determination:—

1. Whether the termination of the services of the petitioner by the respondent *w.e.f.* 28.11.2015 is/was illegal and unjustified as alleged? ..*OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ..*OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? ..*OPR.*
4. Whether the petitioner has no locus standi to file the case as alleged? ..*OPR.*
5. Whether the petitioner has no cause of action to file the present case as alleged? ..*OPR.*
6. Whether the petitioner has not approached the Court with clean hands as alleged? ..*OPR.*
7. Whether the petitioner has suppressed the true and material facts from the Court as alleged? ..*OPR.*

Relief.

6. I have heard learned counsel for the parties at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	No
Issue No. 2	:	decided accordingly
Issue No. 3	:	No
Issue No. 4	:	No
Issue No. 5	:	No
Issue No. 6	:	No

Issue No. 7 : No

Relief : Petition is partly allowed per operative part of the Award

REASONS FOR FINDINGS

ISSUE No.1

8. It is clear from the pleadings that the petitioner was engaged as a Driver in the year 1995 and he worked as such till November, 2015 when his services were orally terminated. The petitioner has specifically pleaded that he had worked for more than 240 days in a span of twelve calendar months preceding his termination. The respondent has not disputed the factum of engagement of the petitioner in the year 1995 but has pleaded vaguely that he has not completed 240 days in the calendar month preceding his termination. It may be stated here that the Act is a beneficial legislation and it has been enacted to benefit those workmen who are made to suffer by their employers for wrongful reasons by denying the legitimate benefits to which they are entitled to under the law. The court has to draw the presumptions in favour of the workmen unless categorical evidence is led by the employer to rebut the presumptions. In the case in hand, the respondent school is the employer and the custodian of the records of all the employees. Once, it is an admitted fact that the petitioner was engaged in the year 1995 and has worked as such till November 2015, it can be legitimately inferred that the petitioner had worked for more than 240 days in the calendar year preceding his termination as it is not the case of the respondent that the petitioner was terminating on some earlier occasions as well. Since the respondent is the custodian of the record as well, therefore, the onus was upon the respondent to prove that the petitioner has not worked for 240 days or more in a span of twelve calendar months preceding his termination. No such evidence has been led on the record, hence, the respondent has failed to rebut the aforesaid presumption. An adverse inference is liable to be drawn against the respondent to the effect that the record of the school was intentionally withheld for the reason that had it been produced, it would have damaged the case of the respondent. Thus it is established that the petitioner has completed 240 days in the calendar year preceding his alleged termination. In the aforesaid background the question to be answered is whether there has been violation of section 25 F(a) of the Act? Before this question is answered, another plea raised on behalf of the respondent discussed hereinafter needs to be dealt with.

9. The respondent has, in fact, come up with the specific case before this Court to the effect that the services of the petitioner were never terminated but he had voluntarily resigned from the job by posting a registered letter dated 26.11.2015 which was received in the school on 27.11.2015 and the resignation was accordingly accepted on 28.11.2015. Thus, the respondent's case is that of voluntary resignation by the petitioner does not amount to termination. The learned counsel appearing for the respondent has cited a ruling of Hon'ble Supreme Court reported in *AIR 1990 SC 1808* titled as *M/s J.K. Cotton Spg. & Wvg. Mills Company Ltd., Kanpur, vs. State of U.P. and Ors.*, wherein it was held by the Hon'ble Court that voluntary resignation does not amount to termination. The petitioner has seriously disputed this plea and has rather specifically pleaded in the rejoinder that he had never resigned for his work but a blank signed paper obtained earlier in good faith was converted into a resignation by the respondent and the same was intentionally and promptly accepted so that the petitioner could be ousted from the job by way of illegal means and he could not take the advantage of the provisions of the Act.

10. The Learned counsel for the petitioner has argued the case on the aforesaid lines and the learned counsel for the respondent has argued that had any document been fabricated, the petitioner would have approached the police and other authorities at once and lodged FIR according to law. Since the petitioner remained silent for long it is thus clear that he had not reasons

to challenge the resignation tendered by him. This is a crucial dispute of facts and needs a closer examination by going through the entire material available on the record.

11. When the evidence led by the parties is carefully examined, it becomes clear from several documents placed on record by the respondent *viz.* Ext. RW3/B to Ext. RW3/S that in the year 2015 several notices were issued to the petitioner by the school management alleging irregularities and deficiencies in his service. All these documents when examined reveal that some times the petitioner was asked to enhance the average of the Bus and other-times peon were sent in the campus to call for this driver. There are several notings of the school peon showing that when school peon went to call for this driver, he was found absent in the campus. All these, notices tendered on the record by the respondent show that relation between the school management and the petitioner had been very strained especially in the year 2015.

12. It is in the aforesaid background that this Court has examined the entire evidence to find out whether the resignation as pleaded by the respondent is genuine or it is a tailored document to dislodge the petitioner from the job. When the affidavits of the witnesses examined by the respondent especially Shri Suresh Kumar (Ext. RW1/A), Shri Yash Pal (Ext. RW2/A) and Shri Mast Ram (Ext. RW3/A) are carefully examined it is recorded therein that the petitioner sent the resignation through registered letter on 26.11.2015 and on 27.11.2015 he came in the school and insisted that his resignation be accepted with promptness. All these witnesses have specifically stated in the affidavits that the petitioner was apprised of the fact that he had not issued one months notice and it was not possible to spare his services at once as there was no body to ply the bus. It is therefore, clear from the facts aforesaid that in case any employee of the school intended to resign it was mandatory for him at least to serve a notice (one months' advance) to the management so that the management could arrange for another employee. If the petitioner has resigned on 26.11.2015 by dispatching the resign through registered post received on 27.11.2015, why the resignation was accepted on 28th November, 2015 when the respondent management was of the view that the services of the petitioner could not be spared at once, and he should have served one month advance notice on the management? Nothing has been placed on the record by the respondent to show that any effort for conciliation took place or the petitioner was seriously counseled to withdraw his resignation and resume his work. No correspondence was done with the petitioner informing him that his services could not be spared at once on account of the exigencies of the duties and his resignation shall be treated as one months' notice and shall be accepted after one month. What was hurry in accepting the resignation? There is no explanation, whatsoever, on the record.

13. When the pleadings and evidence are subjected to appreciation there is no mention of the fact that the petitioner wanted to resign from the job and he had tried to tender his resignation earlier also but was persuaded by the school management to not to do so. There is nothing on the record to show that when the petitioner tried to resign by submitting his resignation letter in the school, the same was not accepted. When the petitioner has been working in the school for more than 15 years continuously and when there is nothing on the record to suggest that school management was not accepting the resignation letter from him in the school, why the petitioner shall go to the post office to post a registered letter to the school authorities on 26.11.2015 when he was regularly attending the school? In case the petitioner intended to resign by posting his resignation letter on 26.11.2015, then why the petitioner was going the school on 27.11.2015 and 28.11.2015? All these facts indicate that the petitioner had no such intentions to tender his resignation and for this reason he attended the school on 27.11.2015 and 28.11.2015. When the resignation was accepted on 28.11.2015 and relieving order Ex. RW1/B was being handed over to him in the school the petitioner is said to have refused to accept the same. In case, the petitioner intended to resign and had tendered his resignation why he shall refuse to receive the relieving

orders when tendered to him in the school? The respondent management has come up with a plea that respondent was insisting that the letter be sent to him by post. This is not an acceptable explanation. It is highly doubtful that the petitioner who had been regularly attending the school will tender the resignation by going to the post office by post a registered letter. It is again highly doubtful that the petitioner will come to the school on next day of tendering his resignation and the third day *i.e.* 28.11.2015. The resignation letter Ext.RW1/T is equally suspicious in nature. This letter has been typed in Hindi and it carries signature of Shri Ashok Singh. The postal envelop Ex.RW3/W is also typed in Hindi and it also carries name of Shri Ashok Singh but there are no signature on this letter by Shri Ashok Singh. Had the petitioner himself got this letter typed and dispatched he would have also signed the envelop of the letter. It appears that this document was fabricated on a blank paper and for this reason it was got typed in Hindi on typing machine so that the comparison of handwriting could be avoided at the later stage. When the contents of this resignation are gone through no satisfactory reason has been mentioned therein for quitting the job. Only it is mentioned that since the petitioner is given different Buses time to time, therefore, he does not want to work as a driver. When the petitioner had been working with the respondent for last 15 years he would not have resigned on such a petty ground. Had the petitioner really intended to resign, he would have tendered his resignation in the school itself. Had the petitioner intended to resign, he would have after tendering resign not come to the school for next two days. Had the petitioner intended to resign he would not have been refused to accept the relieving order. From all these facts it is proved that this letter is not a genuine one but it has intentionally been fabricated in such manner so as to show that petitioner has resigned from his job. The malafide intentions on the part of the school management are writ at large in this case. Ext. RW3/U is pay-in-slip whereby the dues of the petitioner had been deposited in his account to the tune of Rs.20,830/-. These dues were deposited in the account of the petitioner on 27.11.2015. This fact has also been spoken in the affidavit of Shri Suresh Kumar Sr. Assistant (Ex.RW1/A). He has categorically stated that whatever dues of the petitioner were admissible, the same were deposited in his bank account on 27.11.2015. When the resignation was accepted on 28.11.2015 where was the question of depositing the dues of petitioner on 27.11.2015 in his bank account. What was the hurry in depositing his dues in the bank account before accepting his resignation? The resignation letter was received on 27.11.2015, and to the surprise of this court, the respondent deposited the dues of the petitioner on 27.11.2015 itself, when the letter was not even officially dealt with. There is no explanation on the record. Had the petitioner infact submitted his resignation and had the intention of the school management been clear, the school management would have counseled him to withdraw his resignation and would have been apprised him that his services could not be dispensed with at a such short notice on account of the exigency of the work involved. When the petitioner was old employ of the respondent having served the school for more than 15 years, school management would have not get rid of him in high haste but persuaded him to think over his decision. When the school authorities have insisted in every affidavit sworn in evidence that the petitioner was told that he should have served one month's notice exhibiting his intentions to resign from job so that adequate arrangement could be made, then why the school management acted in such a high haste and cleared all dues of the petitioner even before accepting the resignation on the day when the postal letter was received. All these facts to show that the school management was willing to get rid of the petitioner and therefore, all the requirements were dispensed with and the alleged resignation of petitioner was immediately accepted. Infact, it is clear from the facts and circumstances that the petitioner had never resigned from his services but a blank paper signed by him was converted into his resignation and that too by preparing the resignation on Hindi typewriting machine so that question of identification of handwriting does not arise at the later stage. It is clear that resignation was posted from the post office and it was accepted in high haste despite all the fact that petitioner was coming to school every day. Thus from the aforesaid facts and circumstances it is clear that this resignation is not a voluntarily resignation but is a highly suspicious document and it cannot be relied upon. Rather it is proved that this document has been used to get rid of the petitioner so that he could not even take the recourse to the Court under the provision of the Act. So far as argument

that the petitioner did lodge the report is concerned, the petitioner has not disputed his signatures on the resignation letter and since the resignation letter was typed in Hindi, therefore, he could not have done anything in the matter as handwriting was not in issue. No evidence has been led by the respondent school to the effect that no blank signed papers were ever obtained from its workman in good faith and the plea of the petitioner was false. When there had been so much dissatisfaction with the work of the petitioner as is clear from various notice proved on the record why regular inquiry was not initiated against him and why his services were not terminated as per law. The petitioner has himself appeared as PW1 and has categorically said that he never intended to resign nor he has resigned. He had specifically said that some blank papers signed earlier by him were converted into resignation and his services were terminated. Otherwise also, a person who voluntarily resigns from his job does not approach the court for his reinstatement. The petitioner has examined one Chowkidar as PW2 who was also removed from the school and he has tried to make out of the case in favour of the petitioner. Even if statement of this witness Shri Harbans Singh is disregarded even then the petitioner has been able to make out that he has not resigned from school but a blank paper was converted into resignation letter with malafide intentions. The witness examined by the respondent have specifically been cross-examined by asking them that the resignation was obtained by way of cheating. These witness have denied the suggestion. It is but natural that they will not admit such suggestion and damage themselves.

14. For the aforesaid discussion it is held that resignation is not proved to be a voluntary act of the petitioner and dispensing the services of the petitioner on the basis of the same amounts to termination without complying with the provisions contained in Section 25-F (a) of the Act as neither notice as required under law nor compensation was paid to him. It is also admitted fact on the record that junior workmen to the petitioner have been retained and they are still working. Thus, there is violation of provisions of Section 25-G and 25-H of the Act. It is therefore held that termination of the services of the petitioner is illegal and cannot be justified. Issue no.1 is decided accordingly.

ISSUE No. 2

15. Since the issue not 1 has been held in favour of the petitioner, therefore he is held entitled for reinstatement but he is not entitled for back wages by taking into account the fact that he is said to be driving his own vehicles for gains. Issue No.2 is also decided accordingly.

ISSUE No. 3

16. In view of the discussion of issues no.1 and 2 the petition is maintainable. Issue no.3 too is decided accordingly.

ISSUES No. 4 and 5

17. In view of the findings on the issues no.1 and 2 the petitioner has locus standi as well as cause of action hence issues no. 4 and 5 are decided accordingly as well.

ISSUES No. 6 & 7

18. No evidence has been led on these issues by the respondent the petitioner is proved to have not concealed material facts from the Court therefore issues no.6 and 7 are also decided accordingly.

RELIEF

19. In view of my discussion on the above issues, it is held that the claim petition succeeds in part and is partly allowed. The respondent is directed to re-engage the petitioner forthwith. He shall be entitled seniority and continuity in service from the date of his illegal termination *except back wages*. The parties are left to bear their costs.

20. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 7th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No.	:	585/2016
Date of Institution	:	24-08-2016
Date of Decision	:	08-04-2022

Shri Dila Ram s/o Shri Jalam Ram, r/o Village Soul, P.O. Batwara, Tehsil Sunder Nagar,
District Mandi, H.P. . .Petitioner.

Versus

The Divisional Forest Officer, Wild Life Division, Kullu, District Kullu, H.P.
..Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	:	Shri Rajat Chaudhary, Ld. Adv.
For the Respondent	:	Shri Anil Sharma, Ld. Dy.DA

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether alleged termination of services of Shri Dila Ram s/o Shri Jalam Ram, r/o Village Soul, P.O. Batwara, Tehsil Sunder Nagar, District Mandi, H.P. during year, 1993 by the Divisional Forest Officer, Wild Life Division, Kullu, District Kullu, H.P., who had

worked on daily wages and has raised his industrial dispute after 17 years *vide* demand notice dated 9.4.2010, without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of delay of 17 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. The petitioner has pleaded in his statement of claim that his services were engaged as daily wage worker *w.e.f.* 01.01.1989 and served the respondent department as such till 1993 when he was disengaged orally, whereas, workmen junior to him namely S/Sh. Shuku Ram, Joginder Singh, Mouji Ram, Raj Kumar and Devinder Singh were retained. He was not called to resume his work, hence the respondent violated the provisions of Section 25-F (a) 25-F (b), 25-G and 25-H of the Act. Praying the relief of his reinstatement, the petitioner has pleaded that he was still unemployed and was willing to work.

3. The respondent resisted and contested the claim and submitted that the petitioner was engaged as a daily wage workman *w.e.f.* March, 1989 and he worked intermittently and left the work in 1993 voluntarily as was clear from the Mandays Chart. The respondent denied that workmen junior to the petitioner were retained. As per the respondent, the claim of the petitioner is vitiated by the delay and laches as he raised his demand for the first time *vide* notice on 09.4.2017 and there is no explanation, whatsoever, to justify the delay of 17 years. So far other workmen are concerned they were engaged as per the orders of the Court and not otherwise. It is submitted that the respondent has not violated any provisions of the Act and the claim of the petitioner was defeated by the laches and delay, and at the same time, it was devoid of any merits.

4. The petitioner filed rejoinder and reaffirmed the averments so made in the petition. He has impressed upon the fact that work was not abandoned by him and his services were terminated orally by the respondent by retaining several workmen junior to him.

5. From the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether termination of services of the petitioner by respondent during year, 1993 is/was legal and justified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*
4. Whether the claim petition is bad on account of delay and laches on the part of petitioner as alleged? . . .*OPR.*

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under: —

Issue No. 1	:	Decided accordingly
Issue No. 2	:	Decided accordingly

Issue No. 3	:	No
Issue No. 4	:	Decided accordingly
Relief	:	Petition is partly allowed awarding lump-sum compensation of ₹ 70,000/- per operative part of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 4

8. All these issues are taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The respondent has examined Shri Rakesh Kumar, IFS as RW1, who has tendered his affidavit Ext.RW1/A. A bare perusal of the same reveals that the petitioner has worked for 10 days in the year 1989, 116 days in 1990, 233 days in 1991, 160 days in 1992 and 119 days in the year 1993. The Mandays Chart has been tendered by him on the record as Ext.RW1/B showing that in the year 1993 the petitioner has worked for 119 days and in the year 1992 for 160 days. When this Mandays Chart is carefully examined it becomes clear that the petitioner has worked for 26 days in October, 1992 and thereafter he worked in May, 1993 for 22 days and continued his work till September, 1993. It is thus very much clear that the petitioner has not completed 240 days work in a span of 12 calendar months preceding his termination. Thus, the provisions of Section 25-F (a) is not attracted and requirement of one month's advance notice or compensation in lieu of the same was not the requirement. The petitioner has not led any evidence to the contrary to show that he had worked uninterruptedly in the years 1992 and 1993. He has neither pleaded nor proved that he was given fictional breaks with a view to prevent him from completing 240 days nor there is any reference to this effect from the appropriate Government. Therefore the question of fictional breaks does not arise for consideration in this case.

10. When the affidavit of Shri Rakesh Kumar (RW1) is further examined it is clear that S/Sh. Shukru Ram, Joginder Singh, Mouji Ram, Raj Kumar and Devinder Singh were engaged in the year 1991, 1994 and 1998. It is thus clear that after 1993 S/Shri Joginder Singh, Mouji Ram, Raj Kumar and Devinder Singh have been engaged. This is a violation of Sections 25-H of the Act. In case after the alleged termination of the petitioner that took place in the year 1993, the respondent intended to engage the workmen the first priority should have been given to the petitioner. The respondent has taken up the plea of abandonment of work by the petitioner whereas, the petitioner has denied the same and claimed his termination. So far plea of abandonment is concerned it is always for the employer to prove the same by leading positive evidence. The respondent herein has neither pleaded nor proved that any notice was issued to the petitioner asking him to join the work. No explanation of the petitioner as to why he was not reporting to the work was called for. There is no explanation or clarification sought from the petitioner to the effect whether he was willing to work or he intended to abandon the same intentionally. No inquiry was conducted into the gross negligence of the petitioner in not reporting to his duties. No order/noting was prepared before proceeding to engage other workmen to carry on the work showing that the petitioner was not interested to do the work. Thus, the plea of abandonment has not been established by the respondent.

11. The next question arising for consideration is whether the petitioner is proved to have approached the Labour Commissioner with delay and whether the delay has been explained? It is also to be seen by the Court whether the delay has defeated the right of the petitioner for reinstatement or not? It is the case of the respondent itself that workmen were engaged upto the year 1998. The petitioner did not approach the Labour Commissioner earlier in time pointing out that new workmen were being engaged by the respondent and he was not given re-engagement despite of the fact that he had already worked in the department before his termination. The

petitioner has not moved any application to the respondent officers asking them to re-employ him as the work was very much available and new workmen were being engaged, and such act would be in sheer violation to the provisions contained in Section 25-H of the Act. The petitioner neither represented in the year 1994 nor upto the year 1998 and he for the first time approached the Labour Commissioner by raising his demand in the year 2010. Thus, a long period passed in between due the inaction of the petitioner. It is not pleaded by the petitioner that he was not aware of all these facts. It is also not pleaded and proved that he was misguided by the department every time whenever he requested for his re- engagement. It is also not the case of the petitioner that he left the place of his residence for good after leaving his address with the office asking them to recall whenever the work for him was available. The petitioner is resident of the same area and can be said well versed with the factual position. When the work was available and junior workmen were being engaged by the respondent, the petitioner chose to remain silent for more than 10 years and had a realization very late that new workmen were being engaged by the department without giving priority to him. The petitioner has appeared as PW1 in the witness box and his affidavit is Ext.PW1/A. The affidavit is equally silent regarding the delay occasioned in raising the protest. Had the petitioner explained the reasons which made him to approach the Labour Commissioner with delay, the Court would have obtained an opportunity to examine them and give a finding as to whether the petitioner had a plausible reason for the delay. Since the affidavit Ext.PW1/A is silent on this aspect therefore the damage cannot be undone.

12. It is true that after the petitioner left the work new workmen were re-engaged till the year 1998 by the respondent and they have now been regularized as is clear from the seniority list Ext. P1 and Ext. P2, still the petitioner is not entitled for reinstatement as much water has flown under the bridge by lapse of considerable time. Such position has been dealt with by the Hon'ble High Court of Himachal Pradesh in several pronouncements on the effect of delay and laches. In ***Roop Singh vs. Executive Engineer, HPPWD, 2019 (2) ShimLC 645*** was pleased to examine the case of workman who had issued demand notice after 12½ years of his alleged retrenchment. The Hon'ble Court while discussing the entire law on the issue was pleased to observe in Para No. 9 that since the petitioner had issued the demand notice after about 12½ years of his alleged retrenchment much water had already flown under the bridge and as such the Tribunal had not committed any error while awarding compensation in lieu of reinstatement and other benefits. In ***Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019***, the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of ₹1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in ***Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019*** was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of ₹60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi.

13. In the case in hand, the petitioner has been able to prove that there has been violation of Section 25-H of the Act. Taking into account that the petitioner has worked for 638 days *w.e.f.* 1989 to 1993 coupled with the fact that he has not shown any interest in work by not approaching the department soon after the very first workman was engaged after his alleged termination and further the fact that the petitioner has raised his demand after a period of seventeen years, much water has already flown under the bridge and reinstatement cannot be ordered as a matter of right. The petitioner can, however, be compensated by awarding adequate compensation by taking into account the facts and circumstances narrated hereinabove. A sum of ₹70,000/- shall be the appropriate amount of compensation that can be awarded in his favour in lieu of reinstatement and all other consequential benefits. All these issues are decided accordingly.

RELIEF

14. In view of my discussion on the above issues, it is held that though there had been violation of Section 25-H of the Act by the respondent in this case but the petitioner had raised demand after gap of 17 years and his claim has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of ₹70,000/- (Rupees Seventy thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 8th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 142/2016
Date of Institution : 17-03-2016
Date of Decision : 12-04-2022

Shri Tek Chand s/o Shri Lekh Ram, r/o Village Sanihal, P.O. Khural, Tehsil Sunder Nagar, District Mandi, H.P. . .Petitioner.

Versus

The Executive Engineer, H.P.P.W.D. Division, Sunder Nagar, District Mandi, H.P. . .Respondent.

Reference under section 10 (1) of the Industrial Dispute Act, 1947

For the Petitioner : Shri Rajat Chaudhary,
(Ld. Vice-Counsel)

For the Respondent : Shri Vivek Dogra, Ld. ADA

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the industrial dispute raised by the worker Shri Tek Chand s/o Shri Lekh Ram, r/o Village Sanihal, P.O. Khural, Tehsil Sunder Nagar, District Mandi, H.P. before the Executive Engineer, H.P.P.W.D. Division, Sunder Nagar, District Mandi, H.P. vide demand notice dated 17.08.2010 regarding his alleged illegal termination of service during September, 1998 suffers from delay and laches? If not, Whether termination of the services of Shri Tek Chand s/o Shri Lekh Ram, r/o Village Sanihal, P.O. Khural, Tehsil Sunder Nagar, District Mandi, H.P. by the Executive Engineer, H.P.P.W.D. Division, Sunder Nagar, District Mandi, H.P. during September, 1998 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. The petitioner in his statement of claim has pleaded that he was engaged as daily wage beldar by the respondent in the year 1998 and his services were terminated orally in the month of September, 1998 on the excuse that since the funds allotted for the work were exhausted, therefore, his services shall be re-engaged as soon as new funds are received. The petitioner made several oral and written requests to the respondent for his re-engagement but he was not re-engaged. As per him, the seniority list maintained by the respondent shows that several workmen junior to him were re-engaged in between 1997 to 2010 and most of them were also regularized whereas, the petitioner was deprived of the equal opportunity. Such an act, as per the petitioner was in violation of Sections 25-B, 25-N, 25-F (a), 25-F (b), 25-G and 25-H of the Act, hence, he has prayed for his reinstatement with all consequential benefits.

3. The respondent has resisted and contested the petition and submitted that petitioner has worked for 30 days only in the year 1998 and thereafter left the job at his sweet will without any intimation to the department. He had also not completed 240 days in a calendar year in which he worked preceding his termination, hence, he was not entitled for any relief. The petitioner is said to have represented the Labour Inspector and Labour Commissioner in March, 2012 for the first time by raising a demand notice and taking into account the inordinate delay which was never explained, the reference was declined. The petitioner, however, approached the Hon'ble High Court of Himachal Pradesh vide CWP No.68/2016 and the reference has been made on the direction of the Hon'ble Court. The respondent has denied that any representation was ever made by the petitioner and pleaded that since the father's names of the workman are not given in the claim, therefore, it cannot be said whether any person junior to the petitioner was retained or not. The respondent has, thus, prayed for dismissal of the petition.

4. The petitioner filed rejoinder and highlighted that he had not abandoned the job but his muster roll was closed and he was terminated.

5. From the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether the industrial dispute raised by petitioner vide demand notice dated 17-08-2010 qua his termination of service during Sept., 1998 by respondent suffers from the vice of delay and laches as alleged? . . .*OPR.*
2. Whether termination of the services of petitioner by the respondent during Sept., 1998 is/was legal and justified as alleged? . . .*OPP.*
3. If issue no.2 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*

4. Whether the claim petition is not maintainable in the present form as alleged? . . . *OPR*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Assistant District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	Decided accordingly
Issue No. 2	:	Decided accordingly
Issue No. 3	:	Decided accordingly
Issue No. 4	:	No

Relief	:	Petition is partly allowed awarding lump-sum compensation of ₹40,000/- per operative part of the Award.
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REASONS FOR FINDINGS

ISSUES No.1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The respondent while leading evidence had proved the Mandays Chart qua the petitioner as Ext. RW1/B through Er. D.R. Chauhan (RW1). A careful perusal of this document shows that the petitioner had worked for 30 days in the month of September, 1998. No evidence has been led by the petitioner to the contrary showing that he worked for more than 30 days. There is no cross-examination conducted upon Shri D.R. Chauhan suggesting that the petitioner has worked for more than 30 days. Thus it proved that the petitioner has worked for 30 days only in the month of September, 1998. Similar fact is indicated in seniority list Ex. RW1/C tendered on the record.

10. The next question that arises for consideration is whether fictional breaks given by the respondent to the petitioner or the petitioner was himself not willing to work. The further question that needs an answer is whether such an act on the part of the petitioner amounts to abandonment of the job or not. The petitioner appeared as PW1 in the witness box and tendered his affidavit Ext. PW1/A averring therein that his services were orally terminated in September, 1998 on the excuse that the funds were exhausted and whenever further funds are received by the department his services shall be re-engaged. The petitioner was subjected to cross-examination wherein he denied that he had left the work voluntarily and his services were never terminated. The petitioner tried to make out the case that he had represented the department time and again. This plea is not established as no document being an application moved to the department has been proved on record by the petitioner suggesting that he had himself represented the department and prayed that his services may be re-engaged. No other witness has been examined by the petitioner to prove that the petitioner had personally met the officers of the respondent department and requested them to re-engage his services as workmen junior to him were still working. The petitioner realized for the first time after more than 11 years that he had been wrongfully terminated and workmen junior to him have been retained. It is in this manner, the petitioner approached the Labour Commissioner. The Labour Commissioner rejected the demand notice as is clear from order Ext. RW1/D on the ground of delay and laches. The petitioner has relied upon the seniority list of the workmen as RW1/C and when Shri D. R. Chauhan (RW1) was confronted with the same,

he admitted that the workmen mentioned at serial No's. 37 to 105 in Ex.RW1/E were engaged w.e.f. 1999 to 2009. It is therefore very much clear that the petitioner was though disengaged in the year 1998 yet other workmen were engaged in between 1999 to 2009 without calling the petitioner. The conduct of the petitioner needs to be highlighted here. He has not stood up against the respondent when the first workman junior to him was engaged in the year 1999. He did not move a single application to the respondent in between 1998 to 2010 pin-pointing their conduct and asking them to re-engage his services. Such a conduct exhibited by the petitioner shows that he was not willing to work and for this reason he remained silent during all these years. The respondent has although taken up the plea of abandonment of work by the petitioner but this plea is not proved as no notice was ever issued to him by the respondent calling upon him to join his duties. No inquiry was conducted and no explanation was sought in order to know as to why the petitioner has discontinued with the work. The law is well settled on the plea of abandonment and the reference may be made in ***State of Himachal Pradesh and anr. vs. Guddi Devi and anr. in CWP No.2196/2016 decided on 28.6.2019***. It was for the respondent to prove the plea of abandonment of the work by the petitioner by leading positive evidence by placing some material on record to the effect that the employer had called upon workman to join his work and the workman did not show any interest. When the aforesaid facts and circumstances are examined in the light of each other it becomes clear that neither the petitioner had shown any interest to work in the department after September, 1998 nor the department had shown any interest in asking him by issuance of notice or calling for his explanation to insist him to join his duties. The plea of abandonment is thus not proved yet the conduct of the petitioner can also be not ignored. He slept over his right for more than 10 years knowing fully that the workmen junior to him were engaged in the year 1999 itself for the first time. The petitioner raised his demand in the year 2012. The petitioner should have himself remained vigilant and approached the department within a reasonable period by raising the demand or by moving an application praying therein to re-engage him. The law is well settled by Hon'ble High Court of Himachal Pradesh in several pronouncements on the effect of delay and laches. In ***Roop Singh vs. Executive Engineer, HPPWD, 2019 (2) ShimLC 645*** was pleased to examine the case of workman who had issued demand notice after 12½ years of his alleged retrenchment. The Hon'ble Court while discussing the entire law on the issue was pleased to observe in Para No. 9 that since the petitioner had issued the demand notice after about 12½ years of his alleged retrenchment much water had already flown under the bridge and as such the Tribunal had not committed any error while awarding compensation in lieu of reinstatement and other benefits. In ***Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019***, the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of ₹1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in ***Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019*** was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of ₹60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi.

11. In the case in hand, though the petitioner has failed to prove that he was given fictional breaks with a view to not complete 240 days in a calendar year preceding his termination as he had only worked for 30 days yet the petitioner has been able to prove that after his alleged termination workmen were engaged by the department in between 1999 to 2009 and they have been shown in seniority list at serial Nos. 37 to 105. This there has been violation of Section 25-H of the Act. Taking into account number of days the petitioner has worked coupled with the fact that he has not shown any interest in work by not approaching the department soon after the very first workman was engaged after his alleged termination and further the fact that the petitioner has raised his demand after a period of twelve years, much water has already flown under the bridge and reinstatement can not be ordered as a matter of right. The petitioner can, however, be compensated

by awarding adequate compensation by taking into account the facts and circumstances narrated hereinabove. A sum of ₹40,000/- shall be the appropriate amount of compensation that can be awarded in his favour in lieu of reinstatement and all other consequential benefits him. All these issues are decided accordingly.

ISSUE No. 4

12. In view of the findings while dealing issues No. 1 to 3, it is held that petition is maintainable as the relief has been molded for compensation in view of the settled law. Issue no.4 is thus held against the respondent.

RELIEF

13. In view of my discussion on the above issues, it is held that though there had been violation of Section 25-H of the Act by the respondent in this case but the petitioner had raised demand after gap of 12 years and his claim has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of **₹40,000/- (Rupees Forty thousand only)**, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

14. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 12th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT BILASPUR)**

Ref. No. : 254/2015
Date of Institution : 27-06-2015
Date of Decision : 19-04-2022

Shri Raj Kumar s/o Shri Sant Ram, r/o Village Pansui, P.O. & Tehsil Shri Naina Deviji,
District Bilaspur, H.P. . .Petitioner.

Versus

The Divisional Forest Officer, Wild Life Division Hamirpur, District Hamirpur, H.P.
. .Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR

For the Respondent : Shri Anil Sharma, Ld. Dy.DA

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Raj Kumar s/o Shri Sant Ram, r/o Village Pansui, P.O. & Tehsil Shri Naina Deviji, District Bilaspur, H.P. w.e.f. 01-10-2011 (as alleged by workman) by the Divisional Forest Officer, Wild Life Division, Hamirpur, District Hamirpur, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority past service benefits and compensation the above worker is entitled to from the above employer?”

2. The petitioner in his statement of claim has averred that he was engaged as a daily wage beldar by the respondent in the year 1999 and worked as such till 30.9.2011 when his services were orally terminated on the excuse that there was scarcity of funds to continue with the work and his services shall be re-engaged as and when funds are made available by the Government. The petitioner has further submitted that he approached the respondent time and again thereafter with the request that he be re-engaged but his requests were turned despite of the fact that workmen junior to him are still working which amounts to unfair labour practice. The petitioner has named several workmen in para No.3 of the claim and stated that they are junior to him and they have been retained as is evident from the seniority list dated 31.7.2010 hence, the respondent has violated the provisions contained in Section 25- H, 25-G and 25-F of the Act. On such averments, the petitioner has prayed for an order for his reinstatement and other consequential benefits.

3. Initially, reply was filed by DFO Wild Life Hamirpur stating therein that neither the services of the petitioner were engaged nor terminated at any point of time. It was further pleaded that the petitioner was a stranger to the department and there was no violation of the provisions of the Act when the petitioner has not worked even for a single day either as a daily wage or in any other capacity. Later on, it was observed that DFO Wild Life Hamirpur was also a necessary party, therefore amended reply was filed on behalf of DFO Wild Life Hamirpur wherein similar facts were pleaded that the petitioner was neither engaged as a labourer in the department at any point of time nor his services were terminated. As per the respondent, there was absolutely no relationship of employer and employee between the two and the claim of the petitioner was fake. The respondent prayed that petition be dismissed.

4. The petitioner filed the rejoinder in which he has reaffirmed the averments made in the petition and denied those made in the reply in a ceremonial manner without much explanation.

5. From the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether the termination of the services of the petitioner by the respondent w.e.f. 01-10- 2011 is/was improper and unjustified as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*

3. Whether the claim petition is not maintainable in the present form?

..OPR.

Relief.

6. I have heard learned counsel for the petitioner as well as learned ADA for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	decided accordingly
Issue No. 2	:	decided accordingly
Issue No. 3	:	Yes
Relief	:	Petition is dismissed per operative portion of the award.

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. This is a case where the petitioner claimed that he worked with the respondent for as many as 12 years continuously as daily wager and his services were orally terminated *w.e.f.* 01-10-2011. The respondent, on the other hand, came up with a specific plea that the services of the petitioner were neither engaged at any point of time nor he worked as a daily wager nor his services were terminated. Thus, the respondent denied the claim of the petitioner in toto. In this background, the very first question this court is supposed to determine is regarding a relationship of employer and employee between the two before the court examines whether there has been any violation of any provisions of the Act or not? When a person claims that he had been working with any employer as a workman for many years together and the employer specifically denies such a fact, the initial onus is upon the workman to prove this fact at least *prima-facie*. In this case also, it was for the petitioner to lead at least *prima-facie* evidence on the record to make this court infer that he was really engaged by the respondent and he worked for long 12 years with the department as a workman. This fact could have been established by various ways. The petitioner could have examined his family members, his relatives or any other person who had the occasion to see the petitioner working as a daily wage worker with the respondent. The petitioner was always at liberty to call for the records of the respondent pertaining to the years in which he worked with the respondent so that he could establish that there was a relationship of employer and employee between the two. It may be stated here that DFO Wild Life Hamirpur was not a private employer but it is a government department where every work is executed as per rules and regulations and every payment has to be accounted for in the financial records maintained in the regular course of work. In case, the petitioner was engaged by DFO Wild Life Hamirpur even as a beldar in the year 1999, there must be record showing his working days, payments of wages etc. After all, government fund was being paid to such an employee and the amount has to be accounted for in the records. The petitioner did not call for any records of the respondent and therefore, he failed to discharge the initial onus that was placed upon him. The respondent on the other hand, could not have done better than the petitioner himself. The respondent has filed seniority list of the workmen on the record which does not find the name of the petitioner for the simple reasons that the respondent has come up with the specific plea that the petitioner had never worked with the respondent at any point of time. No person of ordinary prudence shall believe that a workman worked in the government department for 12 years yet no record was not maintained by the department. The petitioner has not brought any material on record to show that as to why such behaviour shall be exhibited by the respondent qua his case alone. It is not the case of the petitioner that there were several other workmen whose records were not maintained by the respondent. The case of the petitioner could not be singled out by the respondent unless the petitioner is able to

attribute a specific motive to the officers or officials of the respondent department to act like this in his case alone. Why the respondent department shall not maintain the record of the petitioner when he had worked with it for 12 years? It appears that the petitioner has approached the Court without any reason and had tried to make out a case that he had worked with the respondent for 12 long years and thereafter his services were terminated orally. Had the petitioner been able to produce any evidence in support of his claim, the onus could have been shifted upon the respondent. As aforesaid, the petitioner has neither examined any witness to corroborate his statement nor caused any document produced from the department which could show that the petitioner was employed in the department and worked as a daily wage beldar for 12 years. The self serving statement of the petitioner is not sufficient in his affidavit Ext.PW1/A to the effect that he was engaged in the year 1999 and his services were terminated *w.e.f.* 01.10.2011. The petitioner has failed to prove that he, was infact, engaged and he actually worked with the respondent for such a long period. Even the wife or other relatives of the petitioner have not chosen to stand by him and depose before this Court that the petitioner had worked with the respondent for the alleged period. It appears that none was prepared to support this imaginary plea taken up by the respondent in this claim petition. Had he ever worked with the department, the record would have been maintained by the department. When several other workmen were working and they were paid wages against receipt, the petitioner could have caused all those receipts pertaining to the year 1999 and 2000 summoned before the Court and pointed out that he has signed a particular receipt at a particular place. When there is no documentary evidence, the self serving statement of the petitioner is not sufficient to prove his case and the statement of Shri Rahul M. Rohane (RW1) cannot be disbelieve when he has stated from the available records with the department that, no person, in the case of the petitioner has ever worked on daily wages. The petitioner has failed to prove his engagement and disengagement when it is shown that the petitioner could not claim any benefit and violation of any of the provisions of the Act and he has failed to make out the case for reinstatement, compensation or other consequential benefits. Was not any person of the Village, Panchyat or Tehsil prepared to speak before the Court to the effect that they have seen the petitioner working with the department for long 12 years? An adverse inference has to be drawn against the petitioner for not producing any corroborative evidence to prove that he had infact worked with the respondent department as a daily wage beldar. In nutshell, the petitioner has miserably failed to prove his case. Issues no.1 and 2 are held in negative as the petitioner has not even proved that he was engaged as a daily wage beldar in the respondent department in the year 1999 and there is no question of termination of those services which was never engaged. The claim petition is held not as maintainable. The petitioner is held not entitled to any service benefits as claimed by him. Issue no.3 is also held in negative.

RELIEF

10. In view of my above discussions, the present claim petition fails and is accordingly dismissed. Parties are left to bear their own costs.

11. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 19th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 653/2016
Date of Institution : 09-09-2016
Date of Decision : 21-04-2022

Shri Lekh Raj s/o Shri Data Ram, r/o Village Una, Arya Nagar, Tehsil Una, District Una,
H.P. *Petitioner.*

Versus

The Executive Engineer, Flood Protection Division, I & PH Department Gagret, District
Una, H.P. *Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S. S. Sippy, Ld. AR

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

"Whether alleged termination of services of Shri Lekh Raj s/o Shri Data Ram r/o Village Una, Arya Nagar, Tehsil Una, District Una, H.P. during 06/2001 by the Executive Engineer, Flood Protection Division I&PH Department Gagret District Una, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated 02-09-2015 after more than 14 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 77, 237, 296 and 175 days during years 1998, 1999, 2000 and 2001 respectively and delay of more than 14 years in raising the industrial dispute, what amount of consequential benefits including wages and seniority, benefits on the above ex-worker is entitled to from the above employer/management ?"

2. The petitioner in his statement of claim has submitted that he was engaged as a daily wage beldar *w.e.f.* 01.10.1998 by the respondent and he worked as such till 30.6.2001 when his services were terminated *vide* written order dated 16.5.2001 on the assurance that his services shall be re-engaged as and when work and funds available with the respondent. The petitioner has approached the Administrative Tribunal by way of O.A. No.1255 of 2001 which was decided on 28.2.2002 holding that the Tribunal had no jurisdiction to deal with the matter. The petitioner leaded that he approached the respondent *vide* applications dated 1.7.2002 and 7.9.2004 and thereafter oral and written requests were made in the years 2006, 2008, 2021, 2013 and 2015 for his re-engagement but he was not re-engaged, whereas, the workmen junior to him were retained and fresh hands were engaged which amounted to unfair labour practices. As per the petitioner, he has worked or 240 days before his termination and since the juniors to him were retained and fresh hands were engaged, therefore, he felt aggrieved and raised the demand. Writ Petition was also filed by him before the Hon'ble High Court of H.P and the same was allowed and the petitioner in this manner has prayed for re-engagement and all other consequential benefits including continuity in service, back wages etc.

3. The respondent has resisted and contested the petition on the plea that it is bad on account of delay and laches and moreover, the services of the petitioner were dispensed with after following the procedure of law by issuance of a notice to him. As per the respondent, the petitioner firstly approached the Administrative Tribunal in the year 2001 and when the application was dismissed in the year 2002 he remained silent and raise the issue after 14 years without any explanation for the delay, hence, he was not entitled for any relief as claimed by him. The respondent has denied that the petitioner has completed 240 days working in the calendar year preceding his termination and has thus prayed for the dismissal of the petition.

4. The petitioner has filed rejoinder and reaffirmed the averments made in the claim and denied those made in the reply.

5. From the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether termination of services of the claimant/petitioner by the respondent during June, 2001 and raised his industrial dispute *vide* demand notice dated 02-09-2015 is/was illegal and unjustified? ..*OPP*.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ..*OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? ..*OPR*.
4. Whether the claim petition is bad on account of delay and laches as alleged. If so, its effect? ..*OPR*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	decided accordingly
Issue No. 2	:	decided accordingly
Issue No. 3	:	No
Issue No. 4	:	No

Relief	:	Petition is partly allowed awarding lump-sum compensation of Rs.60,000/- as per operative portion of the Award.
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REASONS FOR FINDINGS

ISSUES No. 1, 2 and 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The learned Authorized Representative for the petitioner has argued that his services were terminated without having recourse to the provisions contained in Section 25-F of the Act and

thus the termination is bad in the eyes of law. On the other hand, learned Dy. District Attorney has argued that the petitioner was given one month's notice in writing indicating the reasons for his retrenchment and this fact is evident from Ext.PW1/B, hence, the provision of Section 25-F has complied with, hence, there is no violation of the law.

10. The petitioner while leading evidence has sworn his affidavit Ext. PW1/A whereby he has stated that his services were dispensed with by a written order dated 16.5.2001 and he was not re-engaged whenever he raised the demand by way of applications. He has stated that 240 days of continuous work were completed by him in the preceding twelve months of his termination. He was subjected to cross-examination as well and he admitted the service of notice upon him. Notice Ext. PW1/B is thus an admitted document. The question that arises for consideration whether there has been complete compliance of the provisions contained in Section 25-F of the Act or not? When Section 25-F is carefully examined it has three limbs. The workman can be disengaged either by issuance of one month's notice indicating therein the reasons for his retrenchment or by paying the wages for the period of notice. Thus either notice has to be served by giving at-least one month's time to the workman or his services can be terminated at once, in case, one month's wages are paid to him then and there. This is only one requirement of Section 25-F. There are two other requirements to be completed which are contained in Section 25-F (b) and (c) of the Act. Section 25-F (b) speaks of the facts that compensation shall have to be paid to the workman at the time of retrenchment equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months. Section 25-F (c) of the Act speaks of the fact that notice shall be served on the appropriate Government. When all the three ingredients are complied with only then the compliance of Section 25-F of the Act can be said to have been made. In case in hand, a notice, no doubt, has been served upon the petitioner indicating the reasons therein for his retrenchment yet the compensation as required under Section 25-F (b) was never paid to him nor any notice has been proved on the record which was served on the appropriate Government. Thus there is incomplete compliance of Section 25-F of the Act and the respondent can not have any advantage of the same. The law to this effect is well settled in *Empire Industries Ltd. v. State of Maharashtra*, AIR 2010 SC 1389. In the absence of complete compliance of Section 25-F of the Act it is held that though the petitioner was served with one month's advance notice by the respondent yet complete compliance of Section 25-F was not made nor the same has been proved to have been made, hence there is a violation of Section 25-F of the Act as the petitioner is proved to have worked for more than 240 days preceding his termination as is clear from the Mandays Chart proved on the record Ext. PW1/E (which corresponds to Ex.RW1/B). Careful perusal of the Mandays charts shows that the petitioner has worked in the year 2001 for 175 days from January to June. In the year 2000 the petitioner has worked for 31 days in December, 27 days in November, 31 days in October, 30 days in September, 15 days in August and 31 days in July. Thus, it is held that the respondent while dispensing with the services of the petitioner had violated the provisions of Section 25-F of the Act.

11. It is further argued on behalf of the petitioner that record suggests that the respondent has not only engaged fresh hands after termination of the services of the petitioner but several workmen junior to him have been retained. The petitioner has relied upon the seniority list Ext. RW1/C and year-wise engagement of daily wage workers' list Ext. PW1/C. When these documents are carefully examined it is very much clear that junior workmen to the petitioner were not terminated at the time when the services of the petitioner were terminated and fresh hands were also engaged without giving opportunity to the petitioner. Such fact is very much clear from the lists proved on the record, and therefore, there is clear cut violation of Sections 25-G and 25-H of the Act. It was for the respondent to discharge the onus by denying such facts. Shri Praveen Kumar Sharma, Executive Engineer has appeared as RW1 in witness box and has sworn his affidavit Ext. RW1/A. This affidavit is silent on this aspect and thus the respondent has failed to defeat the case

of the petitioner on the violation of provisions contained in Sections 25-G and 25-H of the Act. When Shri Praveen Kumar Sharma (RW1) was subjected to cross-examined he denied for the sake of the denial that workers junior to the petitioner have been retained. The petitioner has by leading documentary evidence and proved that workmen junior to him have been retained and fresh hands were also recruited in the department without giving preference to him. Thus the petitioner has able to prove that there has been violation of all three fundamental provisions of Act contained in Sections 25-F, 25-G and 25-H of the Act.

12. The learned Dy. District Attorney has argued that there has been inordinate delay approaching the Court and the petitioner has not explained delay hence, as per settled law the services of the petitioner cannot be reinstated. On the other hand, the learned Authorized Representative has argued that the petitioner has run from pillar to post after his termination and has also made several requests and representations for his re-engagement but his services were not re-engaged, hence he cannot held responsible for the delay. While going through the material on the record it becomes clear that the services of the petitioner were disengaged in the year 2001 *w.e.f.* 30.6.2001 and the petitioner has approached the Administrative Tribunal by way of Original Application No.1255/2001 and it was dismissed on 28.2.2002 with the specific findings that the Tribunal had no jurisdiction to entertain the matter. The petitioner has not proved on the record even a single application moved by him praying his re- engagement in the department after his termination. No evidence has been led to show that the petitioner has even orally requested the officers of the respondent department to re-engage him yet his services were not re-engaged. The petitioner has tendered on record list of other workmen Ext.PW1/C showing that right from the year 2002 several fresh hands were engaged in the department. It is clear from the seniority list that persons junior to the petitioner were retained whereas, his services were terminated. Thus the violation began on 30.6.2001 itself and the petitioner could have raised the demand then and there. The petitioner has approached the Administrative Tribunal where he was specifically apprised of the fact that the jurisdiction to deal with such matter was somewhere else. Despite of this, the petitioner kept sleeping over his right and woke up in the year 2014 for the first time when he approached the Hon'ble High Court by way of Writ Petition No.2261/2014 wherein the Hon'ble Court was pleased to order that reference be made to the Labour Court for adjudication as fresh and junior workmen to the petitioner were retained hence the matter has not become stale. The Hon'ble High Court had specifically held in para 4 the question of delay and latches could be dealt with at the appropriate time while molding the relief. The demand notice was given by the petitioner in the year 2015 and thus the considerable timepassed on account of inaction on his part. Since much water flown under the bridge by now, therefore, the petitioner certainly cannot be reinstated by taking into account the facts and circumstances of the case. Had the petitioner not wasted fourteen precious years and had he approcahed the authorities on time, his claim for reinstatement would not have been defeated on account of delay and latches. The law is well settled by Hon'ble High Court of Himachal Pradesh in several pronouncements on the effect of delay and latches. In ***Roop Singh vs. Executive Engineer, HPPWD, 2019 (2) ShimLC 645*** was pleased to examine the case of workman who had issued demand notice after 12½ years of his alleged retrenchment. The Hon'ble Court while discussing the entire law on the issue was pleased to observe in Para No. 9 that since the petitioner had issued the demand notice after about 12½ years of his alleged retrenchment much water had already flown under the bridge and as such the Tribunal had not committed any error while awarding compensation in lieu of reinstatement and other benefits. In ***Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019***, the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of ₹1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in ***Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640***

of 2019 decided on 24 April, 2019 was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of ₹60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi.

13. Since the petitioner has worked for more than 240 days before his termination and since there is violation of Sections 25-G and 25-H of the Act as well by the respondent therefore the petitioner needs to be compensated for the wrongs done to him in view of the settled law. By taking into account all these facts and circumstances compensation of ₹60,000/- (Rupees Sixty thousand only) shall be just and reasonable to compensate him. The issues are decided accordingly.

ISSUE No. 3

14. In view of the findings while dealing issues above, it is held that petition is maintainable as the relief has been molded for compensation in view of the settled law. Issue no.3 is thus held against the respondent.

RELIEF

15. In view of my discussion on the above issues, it is held that though there had been violation of Sections 25-F, 25- G and 25-H of the Act by the respondent in this case but the petitioner had raised demand after gap of 14 years and his claim for reinstatement has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of ₹ 60,000/- (Rupees Sixty thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 21st day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 73/2014
Date of Institution : 22-02-2014
Date of Decision : 22-04-2022

Shri Tarsem Singh s/o Shri Jai Kishan, r/o Village Oyal, P.O. Nakrana, Tehsil Shri Naina Deviji, District Bilaspur, H.P. . .Petitioner.

Versus

The Divisional Forest Officer, Wild Life Division, Hamirpur, District Hamirpur, H.P.

. Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Tarsem Singh, s/o Shri Jai Kishan, r/o Village Oyal, P.O. Nakrana, Tehsil Shri Naina Deviji, District Bilaspur, H.P. *w.e.f.* 01-10-2011 by the Divisional Forest Officer, Wild Life Division, Hamirpur, District Hamirpur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and from which date the above worker is entitled to from the above employer?”

2. The petitioner has pleaded in his statement of claim that he had worked under the respondent *w.e.f.* January, 1999 to 30 June, 2010 and thereafter in between 01.11.2010 to 30.9.2011 and his services were orally terminated on 01.11.2011 on the excuse that funds were not available to execute the further works and his services shall be recalled as and when funds are available. According to him, he had worked continuously with the respondent on muster rolls and bills and his services were illegally terminated by retaining the juniors named in seniority list dated 31.10.2010 in utter violation to the provisions of Sections 25-F, 25-G and 25-H of the Act, and therefore while allowing his claim he be reinstated with all benefits as he was still unemployed.

3. The respondent has resisted and contested the petition denying specifically that the petitioner worked with respondent since January, 1991. It is explained that he was initially engaged in September, 2001 as casual labourer and his services were never retrenched nor his juniors have been retained. According to the respondent, the department was carrying out seasonal work on bill basis hence, the question of retrenchment does not arise. Moreover, the petitioner has not worked for 240 days in any calendar year nor any fictional break were given to him. He used to abandoned the work at his own sweet will, hence there was no violation of provisions of the Act, therefore, the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments made in the claim and denied those made in the reply.

5. From the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether termination of the services of Sh. Tarsem Singh (petitioner) *w.e.f.* 01-10-2011 by the Divisional Forest Officer, Wild Life Division, Hamirpur, Distt. Hamirpur, H.P. is illegal and unjustified, as alleged? *. .OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits as prayed for? . .*OPP*.
3. Whether the petition is not maintainable in the present form? . .*OPR*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: decided accordingly
Issue No. 2	: decided accordingly
Issue No. 3	: Yes
Relief	: Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has himself tendered on record the Mandays Chart Mark-A and this Mandays Chart was later on tendered in evidence by the respondent as Ext. RW2/B. There are no averments in the claim or rejoinder to the effect that the Mandays Chart has been wrongly prepared in order to cause wrongful loss to the petitioner. No evidence has also been led by the petitioner to show that Mandays Chart has been incorrectly prepared and the true position of the spot has been withheld. The Mandays Chart, therefore, has to be relied upon as it is, and it shows that petitioner was engaged for the first time in September, 2001 when he worked for 10 days. He is shown to have worked for more 20 days in October, 2001 and thus in the year 2001 he worked for 30 days total. This fact is further supported by copy of muster roll No.413 tendered on record by the respondent as Ext. RW2/D. In this factual situation, the plea of the petitioner that he was engaged in the year 1991 stands falsified of the face of it. No evidence has been led by him to prove the plea as taken by him. The petitioner has thus failed to prove that he was engaged in the year 1991. Rather it is proved that he was engaged for the first time in September, 2001 and he worked for 30 days in the year 2001. It is clear from the Mandays Chart that in the years 2002, 2003 and 2004 the petitioner has not worked even for a single day. The petitioner was again engaged in October, 2005 when he worked for 31 days and in November, 20 days and thus for total 51 days in the year 2005. In the year 2006 the petitioner again did not work even for a single day. In the year 2007 petitioner had worked for 29 days in March and 20 days in October total 49 days. In the year 2008 and 2009 the petitioner did not work even for single day. He again worked in the year 2010 for 15 days in April, 31 days in May and 30 days in June total 76 days. Thereafter in the month of April, 2011 he worked for 15 days. It is not the case of the petitioner that he was given fictional breaks for years together and was re-engaged in such manner that he could not complete 240 days in any calendar year and claim his regularization. No such reference has been received from the appropriate Government regarding time to time termination of the services of the petitioner. The reference speaks of termination of the services of the petitioner in October, 2011 whereas, the Mandays Chart shows that in 2011 the petitioner worked only for 15 days in the month of April and not thereafter. Thus things are not clear but confused to the large extent. In case, the petitioner has worked only for 15 days in April, 2011 thus how his services were terminated in October, 2011. No

corrigendum was sought by the petitioner from the Labour Office nor the original reference speaks of time to time termination of the petitioner. It is settled law the Labour Court cannot travel beyond the scope of the reference and cannot adjudicate something which has not been asked for. When the petitioner has not felt aggrieved from his time to time termination, this Court cannot go into the details of the same. When the Mandays Chart is carefully examined it is clear that the petitioner worked in the year 2001 for 30 days and did not work in the years 2002, 2003 and 2004 even for a single day. He again worked for 51 days in the year 2005 and did not work for a single day in 2006. He thereafter worked for 49 days in 2007 and did not work for a single day in the years 2008 and 2009. In this manner by working in the year 2010 after a gap of two years, the petitioner has forgone for right that accrued to him by way of his previous disengagement, if any. Had the petitioner approached the Labour Officer in the year 2001 itself or in the year 2005 or on in any other year when he was disengaged, the position would have been different. Had the petitioner raised the demand and come up with the case of his time to time termination, the position would have been different. It can be now said that the initial engagement of the petitioner shall be taken into consideration for all intents and purpose when he has not worked for years together in between. When the petitioner did not work for years together in between he cannot take the advantage of his past service for the continuity in the service and therefore at the most it can be said that he was engaged for the first time in the year 2010 and disengaged in the year 2011, so far as this case is concerned. He approached the Labour Office in the year 2011 against his alleged retrenchment and prayed that the matter be referred to the Labour Court. In this manner neither the petitioner is able to prove that he has worked continuously from 2001 to 2011 nor he has been able to prove that he has worked in the aforesaid years continuously and completed 240 days in any of the calendar year. The petitioner is thus proved to have joined the work at his choice whenever he felt that he should work. He is also proved to have abandoned the work at his own choice. The petitioner certainly is not entitled to the benefits of Section 25-F of the Act.

10. The next question that arises for consideration is whether the petitioner is able to succeed in proving the violation of Sections 25-G and 25-H of the Act by the respondent? The answer to this question is given in negative. No doubt the seniority lists have been tendered on the record especially Ext. RW1/C which is dated 31.7.2010 and Ext. RW2/C which is dated 31.12.2014 yet careful perusal of these documents shows that no person was engaged by the department after the year 2010 and was retained at the cost of the petitioner. There is no material on the record to show that any workman disengaged after the petitioner was called for work without giving priority to the petitioner. The petitioner cannot take benefit of Sections 25-G and 25-H of the Act right from the year 2001 as he has not worked even for single day in the year 2002, 2003, 2004, 2006, 2008 and 2009. He has worked only in intervals and there cannot be any parity with those workmen who have been working continuously either from the year 2001 or thereafter. The petitioner cannot be take the advantage of 'first come last go' and 'last come first go' as he has not worked for several years in between and he has worked lastly in the year 2010 and 2011. The case of the petitioner can be treated on parity basis with those workmen who were engaged after 2010 and 2011. Since no such workman is proved to have been engaged in 2010 and 2011 therefore benefit of Sections 25-G and 25-H of the Act cannot be had by the petitioner. So far as the oral evidence is concerned, the petitioner has denied that he himself left the job at his own and no fictional breaks ever given to him. For the sake of repetition, it may be stated here that the petitioner has not raised the issue of fictional breaks before the Labour Department nor reference to examine the matter from the angle of fictional breaks has been received by this Court. The respondent, on the other hand, has examined Shri Rahul M. Rahane, Dy. Conservator of Forests Wildlife Division Hamirpur as RW1 who has sworn his affidavit Ex.RW1/A stating those facts which are pleaded in the reply and there is nothing in his cross examination which would help the petitioner in any manner. In view of the aforesaid discussion, there is neither violation of Sections 25-F nor of section 25-G and 25-H of the Act. Hence, it cannot be said that the termination of the services of the petitioner *w.e.f.* 01.10.2011 is illegal and unjustified. In view of these facts and circumstances, the petitioner is not

entitled to any relief including reinstatement, seniority, back wages, past service benefits etc. The claim petition is held not as maintainable. The petitioner is held not entitled to any service benefits as claimed by him. The issues are decided accordingly.

RELIEF

11. In view of my above discussions, the present claim petition fails and is accordingly dismissed. Parties are left to bear their own costs.

12. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 22nd day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 50/2016
Date of Institution : 20-02-2016
Date of Decision : 23-04-2022

Shri Amar Nath Sharma s/o Shri Sunder Ram Sharma, r/o Village Palsoti, P.O. Kothi, Tehsil Ghumarwin, District Bilaspur, H.P. . . *Petitioner.*

Versus

Executive Engineer, HP.PWD Division Ghumarwin, District Bilaspur, H.P. . . *Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy.DA

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the alleged termination of the services of Shri Amar Nath Sharma s/o Shri Sunder Ram Sharma, r/o Village Palsoti, P.O. Kothi, Tehsil Ghumarwin, District Bilaspur, H.P. w.e.f. 01-04-1999 by the Executive Engineer, Ghumarwin Division, H.P.P.W.D Ghumarwin

District Bilaspur, H.P. who has worked as a beldar on daily wages basis only for 24 days, 181 days and 25 days during the year 1997, 1998 and 1999 respectively and has raised his industrial dispute after delay of more than 9 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view the working period of 24 days, 181 days, and 25 days during the year 1997, 1998 and 1999 respectively and the delay of more than 9 years in raising the industrial dispute, what amount of back wages, seniority past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"

2. The petitioner in his statement of claim has averred that he was engaged as a daily wage beldar by the respondent and he worked as such during the year 1997, 1998 and 1999 for 24 , 181 and 25 days respectively. His further case is to the effect that his services were orally terminated *w.e.f.* 01.04.1999. the petitioner filed O.A No. 2160/1999 before the Administrative Tribunal but it was disposed on the ground that the Tribunal had no jurisdiction to deal with the matter. Thereafter the petitioner moved several application on 16-07-2002, 07-03-2004, 10-04-2005 and 20-08-2007 for his re- engagement, but of no avail. He raised the demand by way of demand notice on 07-01-2006 but nothing was done by the Labour Officer. The petitioner claims that he again issued the demand letter on 26-06-2008 and only then the reference was made in the year 2016. According to the petitioner, his name was entered at Sl. No. 486 in the seniority list and as many as 10 workmen named in para No.4 of the claim were retained despite of the fact that they are juniors to the petitioner and with the passage of time their services have been regularized. The petitioner has thus alleged that the respondent has violated the provisions contained in Section 25-B, 25-H and 25- G of the Act and an order for his reinstatement and other consequential benefits be passed as he was still unemployed.

3. The respondent has resisted and contested the claim petition on the plea of maintainability and delay and latches. On merits, the case of the respondent is to the effect that the petitioner was never engaged as a daily wage by the respondent in the year 1997. It is explained that in fact a centrally sponsored scheme known as 'Employment Assurance Scheme' launched under 8th Five year Plan was implemented on PAN INDIA platform including the state of Himachal Pradesh. In this process it was implemented in Ghumarwin Development Block of District Bilaspur as well. Purpose of the scheme was to generate employment in rural areas covering the deserts tribal and hilly area and to provide at least 100 days assured employment to unskilled workers of the rural area during the lean agriculture season. The funds were released by the Deputy Commissioner Bilaspur and the respondent was only implementing agency. The respondent has further pleaded that the scheme could not be continued beyond December, 1997 for the reason that funds allocated were exhausted and new funds were not allocated by the Deputy Commissioner, Bilaspur. The respondent, therefore, did not indulge in unfair labour practice and the scheme automatically came to an end and no workman was retrenched. It is also denied that the petitioner has made representation in the manner as alleged. The respondent has admitted that the name of the petitioner was entered at Sl. No. 486 of the seniority list. It is explained that he has never completed 240 days in proceeding 12 months. According to the respondent, the persons referred to by the petitioner namely S/Sh. Jitendar Singh, Chain Singh, Om Parkash, Kesh Mohamad and Beli Ram were engaged as per order of the Administrative Tribunal and Sh. Jodha Singh who was transferred from HPPWD, Division No.1 Bilaspur, whereas Sh. Fathu Ram had never worked with the respondent. Sh. Pawan Kumar is said to have been engaged on the compassionate grounds. The respondent has further stated that the petitioner cannot claim parity with aforesaid workmen as they were engaged by the respondent for its normal functions and routine development activities under plan and non-plan expenditure of the State, whereas, the petitioner was engaged under the above mentioned scheme. The petitioner has left the work at his own and he was thus not entitled for any relief.

4. The petitioner filed the rejoinder in which he has reaffirmed the averments made in the petition and denied those made in the reply.

5. From the pleadings of the parties, following issues were framed while keeping in mind the reference received:-

1. Whether termination of the services of the petitioner by the respondent *w.e.f.* 01-04-1999 is/was improper and unjustified as alleged? ..*OPP.*
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ..*OPP.*
3. Whether the claim petition is not maintainable in the present form? ..*OPR.*
4. Whether the claim petition is bad on account of delay and laches as alleged? ..*OPR.*

Relief.

6. I have heard learned counsel for the petitioner as well as learned ADA for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	decided accordingly
Issue No. 2	:	decided accordingly
Issue No. 3	:	decided accordingly
Issue No. 4	:	decided accordingly
Relief	:	Petition is dismissed per operative portion of the award

REASONS FOR FINDINGS

ISSUES No. 1 to 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The parties led evidence in support of their respective pleas. The petitioner appeared as PW1 in witness box and tendered his affidavit Ext. PW1/A stating therein the facts pleaded by him in the claim petition. He has tendered on record copy of demand notice Ext. PW1/C, copy of representation and applications Ex. PW1/D, PW1/E, PW1/F and PW1/G. These documents were objected to on the mode of proof. Rightly so, the petitioner has not tendered on record the postal receipts *vide* which these letters were sent to the addressee. Simply filing some letters on the Court record does not prove that such letters were in fact dispatched to the addressee and received by him. A letter, if claimed to have been sent by post can be proved by way of postal receipt. In case a letter is claimed to have been delivered by hand, this fact can be proved either by the diary register of the addressee office or by obtaining the signature of the official of the addressee on the office copy of the letter. No such documents have been filed and proved on the record, and therefore, these demand notice and other request letters are thus not proved to have been received by the respondent. This is one aspect of the matter which draws attention of the Court.

10. The main controversy between the parties is with regard to the status of the petitioner as daily wage beldar and his alleged termination by not following the provisions of the law. The

petitioner claims himself as a daily wage engaged by the respondent. The respondent, on the other hand, has come up with the case that the petitioner was engaged under the centrally sponsored scheme which was not the work belonging to the respondent department. Rather the respondent was only executing agency at the behest of Deputy Commissioner Bilaspur. The petitioner was subjected to cross-examination and he pleaded his ignorance to the suggestions that he was employed under the centrally sponsored scheme, known as Employment Assurance Scheme. He admitted that funds for this scheme were released by the Deputy Commissioner Bilaspur and this scheme was akin to the MNREGA scheme. The petitioner, therefore, is not clear himself whether he was engaged by the respondent to execute the work of the respondent department or his engagement was under centrally sponsored Employment Assurance scheme. Respondent has also led evidence on this aspects and affidavit of Executive Engineer Sh. Deepak Kapil (Ex.RW1/A) is very material to clinch the issue. Er. Deepak Kapil has specifically stated about the scheme and about the fact that this scheme was meant to provide at least 100 days Assurance Employment to the villagers with the sole purpose of providing employment in the rural areas. He has specifically stated that the respondent had nothing to do with the scheme but it was centrally aided and funds were released by the Deputy Commissioner Bilaspur. He has also stated that respondent was only executing agency and neither funds of the respondent were spent nor the respondent had any connection with the same. This witness has tendered on record out document showing the objectives of the scheme as Ext. RW1/B, criteria and procedure for the same Ext. RW1/C and planning etc. for the same as Ext. RW1/D. He has also tendered on record documents showing the manner in which registration of worker could take place (Ext. RW1/E). Office order by Deputy Commissioner Bilaspur regarding the implementation of the scheme has been tendered on record Ex. RW1/F. This office order when carefully examined shows that the work under the scheme could be allotted to those villagers who had registered themselves and they could be provided with work for minimum 100 days only. Office order also speaks of the fund and the manner in which the same are to be spent under the scheme. Entire scheme, copies whereof have been tendered on the record, shows that it has not connection whatsoever with the respondent department, but the respondent department was only asked to implement the same after the office order was issued by the Deputy Commissioner Bilaspur and funds were released. It is thus clear that neither the funds belonged to the respondent department nor the same were to be used for the betterment of the department, but the respondent department had no role in the matter. The workmen engaged under this scheme thus did not belong to the respondent. Neither the respondent department intended to execute work of the department nor the respondent department had engaged the workmen for execution of its work. As aforesaid, it was centrally sponsored scheme and Bilaspur Administration was implementing the scheme and work and funds were assigned to the respondent department. The witness examined on behalf of the respondent has tendered on record seniority list of workmen who had worked under the Employment Generation Scheme as Ext. RW1/G. This seniority list shows that as many as 573 workmen had worked under this scheme and name of the petitioner is entered at Sl. No. 486. Once the scheme has ended and its purpose was achieved, the respondent definitely could not have engaged the service of as many as 573 workmen nor any right could have accrued to them to claim further work from the respondent department. It is in the aforesaid background that the petitioner has worked for 24 days in the year, 1997, 181 in the year, 1998 and 25 days in the year 1999 as is clear from the Mandays chart tendered on record as Ext. RW1/H. Even if petitioner has worked for more than 240 days even then he had no right to claim any right under the respondent as respondent was not the party to whom the work belonged. As aforesaid, the respondent was only executing agency and it had nothing to do with the scheme as scheme was Centrally sponsored and funded. The petitioner has claimed that his services were terminated *w.e.f.* 01-04- 1999. No evidence has been led by him to prove that the work was still continued. The petitioner has tendered on record the same letters which he claims to have served upon the respondent but no postal receipt, no acknowledgments have been proved on record. It appears that these letter were written at the time of filing the claim and were filed with the claim petition. In the aforesaid facts and circumstances, the petitioner, cannot claim any right under the

respondent department and there is no violation of Section 25-F even if no further work was given to the petitioner as the scheme was centrally sponsored and meant to provide at least 100 days employment to the rural labourer. The work executed at the spot did not belong to the respondent department. The petitioner has claimed in para No. 4 of the claim that S/Sh. Pawan Kumar, Jitender Singh, Chain Singh, Om Prakash, Jodh Singh, Data Ram, Balbir Dass, Kesh Mohamad and Beli Ram are juniors to him. According to him these workmen have been retained in the employment at his cost. Seniority list is Ext. RW1/G and when this list is carefully examined the names of all these persons do not appear after Sl. No. 486. The respondent in reply as well as evidence has come up specifically case that these workmen were not employed under the scheme but these were workmen of the department. Sh. Pawan Kumar was given employment on compassionate grounds, whereas, rest of the workmen were engaged on the orders of Administrative Tribunal. The respondent has not led any evidence to show that these workmen were not also working under the employment generation scheme. Had these workmen been working under the employment generation scheme their names should have figured in the seniority list Ext. RW1/G after serial No. 486. Thus the petitioner certainly cannot claim parity with these workmen as these workmen were of the respondent department, whereas the petitioner and other 572 workmen were simply engaged to work under the Scheme introduced by the Center Government and they were paid out of the funds provided by Deputy Commissioner Bilaspur and not out of the funds allocated to the respondent by H.P government. These workmen cannot be stated to be juniors to the petitioner as their name do not figures in seniority list at all as they are workmen of the respondent department and nature of their engagement was different then the nature of the engagement of the petitioner and other 572 workmen. The plea of the petitioner that junior have been retained and he being senior was disengaged in violation of the law is thus not tenable.

11. Thus petitioner has failed to prove that he was workman of the respondent and he was engaged to perform the works of the respondent and was paid out of the funds of the respondent allocated by the State Government. Rather the respondent has proved that this work executed did not belong to the respondent but it was centrally sponsored scheme and funds were allocated by the Central Government through Deputy Commissioner Bilaspur and Deputy Commissioner Bilaspur had simply got work executed through respondent. Once the petitioner is not proved as workmen of the respondent paid out of funds of the respondent department he cannot take plea that relationship of employer and employee existed between the two and his service were terminated without the following the provision of law. Even otherwise, he has not completed 240 days work in preceding 12 months of his alleged termination. The petitioner has also failed to prove that the workmen juniors to him has been retained and his service was disengaged in violation of provisions under Section 25-G and 25-H. The petitioner has certainly approached the Labour Officer after many years and his claim has also suffered from delay and laches. The petitioner has tried to create an evidence by filing several self styled applications without the postal receipt. The petitioner has thus failed to make of the case for his reinstatement and all consequential benefits. The petitioner has also failed to make the case of compensation in his favour and reference is liable to be answered in negative. Issues no. 1 and 2 are held against the petitioner and issues no. 3 & 4 in favour of the respondent.

RELIEF

12. In view of my above discussions, the present claim petition fails and is accordingly dismissed. Parties are left to bear their own costs.

13. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 49/2016
Date of Institution : 20-02-2016
Date of Decision : 29-04-2022

Smt. Beasa Devi w/o Shri Sohan Singh, r/o Village Satahan, P.O. Karkoh, Tehsil Sadar, District Mandi, H.P. . .Petitioner.

Versus

The Executive Engineer, H.P.P.W.D. Division No.-II, Mandi, District Mandi, H.P. . .Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri N.L. Kaundal, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the industrial dispute raised by the worker Smt. Beasa Devi w/o Shri Sohan Singh, r/o Village Satahan, P.O. Karkoh, Tehsil Sadar, District Mandi, H.P. before the Executive Engineer, H.P.P.W.D. Division No.-II Mandi, District Mandi, H.P. *vide* demand notice dated 19.12.2009 regarding her alleged illegal termination of service during February, 2000 suffers from delay and laches? If not, Whether termination of the services of Smt. Beasa Devi w/o Shri Sohan Singh, r/o Village Satahan, P.O. Karkoh, Tehsil Sadar District Mandi, H.P. by the Executive Engineer, H.P.P.W.D. Division No.-II, Mandi, District Mandi, H.P. during February, 2000 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. The petitioner has come up with the case in her statement of claim that she was engaged as daily waged beldar by the respondent w.e.f. April, 1999 and worked as such continuously till February, 2000 by completing 240 days in the calendar year. Further case of the petitioner is that her services were terminated through verbal orders in February, 2000 without following the requisite procedure and the principle of 'Last Come First Go' was sacrificed as

workmen junior to her were retained and later on fresh hands were engaged without giving priority to her. She claims that despite of several requests to the respondent she was not reinstated and feeling compelled she raised her dispute *vide* demand notice dated 19.12.2009. The Labour Officer refused to refer the matter for adjudication and the petitioner had to take recourse to the writ jurisdiction of Hon'ble High Court, and ultimately writ was allowed and the present reference was made to the Court. The petitioner has, in the aforesaid facts and circumstances, prayed for her reinstatement and all other service benefits *i.e.* back wages, seniority and continuity in service.

3. The respondent has resisted and contested the claim on the plea of maintainability and having become stale. On merits, the respondent has pleaded that the petitioner was though engaged in April, 1999 yet she worked intermittently upto February, 2000 and left the job at her own, hence no violation of the provisions of the Act was made by the respondent. It is further pleaded that neither any junior workman was retained nor any fresh hand was engaged by the respondent, hence, the claim of the petitioner is without merit, hence, the reference be answered in negative.

4. The petitioner has filed rejoinder and reaffirmed the averments as made in the claim petition and denied those of the reply stressing upon the fact that no inquiry was ever conducted by the respondent into the reasons for alleged abandonment. The petitioner has submitted that the reference be answered in her favour.

5. From the pleadings of the parties, following issues were framed on 21.03.2018 while keeping in mind the reference received:—

1. Whether the industrial dispute raised by petitioner *vide* demand notice dated 19-12-2009 qua his termination of service during Feb., 2000 by respondent suffers from the vice of delay and laches as alleged? ..*OPP.*
2. Whether termination of the services of petitioner by the respondent during Feb., 2000 is/was illegal and unjustified as alleged? ..*OPP.*
3. If issue no.1 or issue no.2 are proved in affirmative, to what service benefits the petitioner is entitled to? ..*OPP.*
4. Whether the claim petition is not maintainable in the present form as alleged? ..*OPR.*

Relief.

6. I have heard learned Authorized Representative for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:-

Issue No. 1	:	decided accordingly.
Issue No. 2	:	decided affirmative
Issue No. 3	:	decided accordingly
Issue No. 4	:	No
Relief	:	Petition is partly allowed awarding lump-sum compensation of ₹50,000/- as per operative portion of the Award.

REASONS FOR FINDINGS**ISSUE No. 2**

8. I take this issue firstly for disposal for the sake of convenience. The petitioner, on her turn, sworn her in affidavit Ext. PW1/A stating therein all the facts in detail. She even referred to be various precedents in which the Hon'ble High Court of H.P. had ordered reinstatement despite of the fact that the dispute was raised after a considerable delay by the petitioner. She tendered on record the 'Mandays Chart' Ext. PW1/B, copy of order dated 23.02.2010 Ext. PW1/C, copy of letter Ext. PW1/D and information under RTI Ext. PW1/E. The Mandays Chart Ex.PW1/B is very material. It shows that the petitioner has worked from the year July, 1999 till December and thereafter in February. The respondent has also tendered on record another Mandays Chart Ext. RW1/B which shows a different picture. As per the Ext. RW1/B, the petitioner was engaged in April, 1999 and she worked till December in continuity for 141 days and thereafter she worked for 12 days only in the year February, 2000. This Mandays Chart (Ext. RW1/B) has been accepted by both the parties and thus it can be taking into account. When this document is carefully examined it becomes clear that the petitioner has worked *w.e.f.* April, 1999 to February, 2000 only for 10 months. Thus there is no question of claiming that the petitioner has worked continuously for 12 calendar months preceding her termination. When the petitioner has worked for nine months in the year 1999 and for one more month in the year 2000, she cannot claim that she had worked for at least 12 months preceding her termination and therefore, the question of violation of the provision contained in Section 25-F of the Act does not arise at all. Section 25-F requires at least 240 working days preceding termination in 12 calendar months. The requirement is not met in this case, and therefore, violation of Section 25-F is not established.

9. Now comes the question of violation of the provisions contained in Sections 25-G and 25-H of the Act. The petitioner has led additional evidence and examined Shri Khem Singh as PW2. He has proved the seniority list Ext.PW2/A. This is an admitted document and when it is carefully examined, it becomes clear that the workman shown at serial No.36 onward were engaged after the year 1999 and most of them have been regularized. It is further clear that some of the workmen were engaged in the year 2004, 2005 and 2009 also but they were engaged on compassionate grounds. Smt. Shanti Devi w/o Shri Narotam Dutt shown at serial No. 36 was engaged in the year 2000 and she was regularized in the year 2009. Since the petitioner was disengaged in February, 2000 therefore, it can be presumed that Smt. Shanti Devi was engaged after the petitioner as the respondent has not led the evidence on the record in the form of Mandays Chart of Smt. Shanti Devi to the effect that she was engaged in the month of January, 2000. Even if it is presumed for a while that Smt. Shanti Devi was engaged in January, 2000 even then the principle of 'Last Come and First Go' would have been applicable.

10. The only point raised on behalf of the respondent is that the petitioner was never retrenched but she left work at her own. On the other hand, the petitioner has stressed upon the fact that her services were terminated by way of a verbal order. The law is well settled in several pronouncements of Hon'ble Supreme Court and Hon'ble High Court of H.P. to the effect that, in case, the employer takes the plea of abandonment of work by the workman, it is for the employer to prove on the record that a notice was issued to the workman asking him to resume his duties soon after his absence. It is also settled law that the employer must undertake an inquiry in the reasons for absence of the workman and then conclude that workman was not interested to work and wanted to give up the job at his own. Once the employer has arrived to such a satisfaction only then fresh workman could be engaged in his place. Abandonment is thus a technical plea and if a workman does not report to work all of sudden, the employer is not relieved of its duties and can not take the plea of abandonment lightly. Reference may be made to a judgment, *State of Himachal Pradesh and anr. vs. Guddi Devi and anr. in CWP No.2196/2016 decided on*

28.6.2019. Such question was specifically dealt with in para No.17. The respondent, in the present case, has also not proved the abandonment by the petitioner. Er. Pradeep Singh Thakur has sworn his affidavit as Ext. RW1/A and this affidavit does not find reference of the fact that any notice was issued to the petitioner or any inquiry was undertaken before concluding that she was not willing to work anymore and such a conduct on her part amounted to voluntarily abandonment of the work. Thus the plea of abandonment is not established and the respondent has not discharged the onus placed upon it. In such a situation either retaining of Smt. Shanti Devi or engaging her after the petitioner did not report for her duties amounts to the clear cut violation of Sections 25-G and 25-H of the Act. Thus the termination of the services of the petitioner by the respondent in February, 2000 is illegal and the action of the respondent in engaging fresh hands and retaining the juniors without giving an opportunity to the petitioner is also unjustified. Issue No.2 is held in affirmative.

ISSUE No.1

11. This issue has been framed in accordance with reference as the appropriate Government has sought adjudication of the question whether the claim of the petitioner suffers from delay and laches. It is thus for this Court to see whether the claim of the petitioner is suffering from delay and laches. If the answer is in affirmative then further question arises whether the relief claimed by the petitioner can be molded in the given facts and circumstances. It is admitted that the services of the petitioner were disengaged in February, 2000 and the demand was raised by her in the year 2009. The petitioner alleges that she had approached the respondent time and again in between and requested for her reinstatement but her prayer was not considered. No document has been placed on record by the petitioner to show that any application was ever moved by her to the officers of the respondent department to impress upon that her services be re-engaged. The petitioner has not examined any person in the witness box to prove that the petitioner has made any such demand in his presence. In the absence of any material on record it cannot be said that the petitioner had been pursuing the matter in between and when she found that her services shall not be re-engaged at any cost only then she raised demand. In the absence of any documentary and oral evidence, it is held that the petitioner slept over right from the year 2000 to 2009 and raised her demand for the first time in the year 2009. Such an act on the part of the petitioner proves that she had not shown any interest in seeking her re-engagement for as long as nine years. The claim of the petitioner, therefore suffers from the delay and laches so far as her reinstatement is concerned, but the Court is not helpless in such situation as the relief of compensation can always be granted in such cases. There are recent judgments of Hon'ble High Court of H.P. in which such practice has been suggested. The law is well settled by Hon'ble High Court of Himachal Pradesh in several pronouncements on the effect of delay and laches. In **Roop Singh vs. Executive Engineer, HPPWD, 2019 (2) ShimLC 645** was pleased to examine the case of workman who had issued demand notice after 12½ years of his alleged retrenchment. The Hon'ble Court while discussing the entire law on the issue was pleased to observe in Para No. 9 that since the petitioner had issued the demand notice after about 12½ years of his alleged retrenchment much water had already flown under the bridge and as such the Tribunal had not committed any error while awarding compensation in lieu of reinstatement and other benefits. In **Prakash Chand vs. EE Flood Protection I&PH Gagret-653 Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019** decided on **09 April, 2019**, the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of 1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in **Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019** was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of Rs.60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by **Smt. Vyasa Devi**.

12. Taking into account the aforesaid facts and circumstances, the petitioner is held not entitled for reinstatement, back wages, seniority etc. yet she is held entitled for compensation to the tune ₹50,000/- (Rupees Fifty thousand only). This issue is decided accordingly.

ISSUES No. 3 & 4

13. The petition is held maintainable for the aforesaid reasons and the petitioner is held entitled for compensation as held hereinabove, both these issues are decided accordingly.

RELIEF

14. In view of my discussion on the above issues, it is held that though there had been violation of Sections 25-G and 25-H of the Act by the respondent in this case but the petitioner had raised demand after a gap of 09 years and her claim for reinstatement has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in her favour but she is held entitled for compensation to the tune of ₹50,000/- (Rupees Fifty thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 29th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 86/2017
Date of Institution : 28-03-2017
Date of Decision : 29-04-2022

Shri Pyar Singh s/o Shri Jeeto Ram, r/o Village Bhela, P.O. Shaoo, Tehsil & District Chamba, H.P. . .Petitioner.

Versus

The Divisional Forest Officer, Chamba Forest Division, District Chamba, H.P. . .Respondent.

Reference under section 10 (1) of the Industrial Disputes Act 1947

For the Petitioner : Shri A.K. Jaryal, Ld. Adv.

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Pyar Singh s/o Shri Jeeto Ram, r/o Village Bhela, P.O. Sahoo, Tehsil & District Chamba, H.P. during year, 2009 as alleged by the workman by the Divisional Forest Officer, Chamba Forest Division, District Chamba, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer management?”

2. Though the reference is confined to the termination of the services of Shri Pyar Singh during the year 2008 yet the statement of claim filed by the petitioner is very elaborate referring to the facts right from the year 1999. As per the petitioner, he was engaged in the year 1999 as nursery watcher/worker in Forest Range Sahoo under Forest Division Chamba and his services were disengaged in the year 2000 without following the process of law. The petitioner approached the H.P. Administrative Tribunal, Shimla and he was ordered to be re-engaged but the department did not honour the order. The petitioner has further pleaded that he had rendered his services continuously *w.e.f.* 1999 to 2004 yet he was not allowed to work in the year 2005 even for a single day and he was given fictional breaks in the years 2006, 2007 and 2008 with a view to deprive him of his right of regularization and his services were terminated in the year 2008 without giving an opportunity of being heard. The respondent is alleged to have violated the principle of 'Last Come First Go' and such an action is claimed to be an arbitrary as workmen junior to the petitioner namely Shri Punnu Ram and Shri Rattan Chand have been regularized, whereas, the fictional breaks were given to the petitioner and thus there is violation of Sections 25-G, 25-H and 25-F etc. On these averments, the petitioner has prayed that he be allowed to have the benefit of seniority and continuity in service from the date of initial engagement and artificial breaks given to him be condoned for the purpose of seniority and full back wages be also given to him.

3. The respondent has resisted and contested the petition and submitted that it was not maintainable as the services of the petitioner were never terminated. It is submitted that the petitioner was engaged as casual labourer in January, 1999 and he worked intermittently *w.e.f.* 01-1999 to December, 2008 as per his own will and thereafter worked continuously completing 240 days in each calendar year *w.e.f.* January, 2009 to 2014. Thereafter the petitioner is said to have worked on bill basis till 2018. No fictional breaks are said to have been given to the petitioner and no workman junior to him was retained. The services of S/Shri Punnu Ram and Rattan Chand are said to have been regularized as they had fulfilled the terms and conditions for the regularization. It is submitted that no fictional breaks were ever given to the petitioner and he was never terminated as he was still working with the respondent. It is submitted that in these facts and circumstances, the question of termination his services in the year 2008 does not arise at all. It is prayed that the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments as made in the petition while denying those of the reply.

5. From the pleadings of the parties, following issues were framed on 14.05.2019 while keeping in mind the reference received:—

1. Whether termination of services of the petitioner by the respondent during year 2008 is/was illegal and unjustified, as alleged? . . . *OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable, as alleged? . . . *OPR*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	decided accordingly
Issue No. 2	:	decided affirmative
Issue No. 3	:	Yes
Relief	:	Petition is dismissed per operative portion of the Award

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. While arguments were addressed on behalf of the parties, the learned Dy. D.A. appearing for the respondent drew the attention of the Court towards the reference and argued that the services of the petitioner were never terminated by the respondent and the petitioner worked till 2018 with the respondent, hence, the reference qua his termination could not be answered in favour of the petitioner. He has further argued that the respondent has been very categorical throughout in pleading and while leading the evidence that the services of the petitioner were never terminated in the year 2008 and he had worked till 2018. He has also argued that the claim petition filed by the petitioner and the relief claimed therein are beyond the scope of reference as the reference is regarding the alleged termination of the services of the petitioner in the year 2018, whereas, in the claim, the petitioner has alleged time to time termination and the artificial/fictional breaks. He has drawn the attention of the court towards relief clause in the claim and submitted that the relief clause is not consonance with the reference received. He has thus prayed for dismissal of the claim as the services of the petitioner were never terminated in the year 2008. According to him, the petitioner had left the work at his own and thereafter he reported to the work again and worked thereafter till the year 2018 when he was retired in due course.

10. On the other hand, learned counsel for the petitioner has argued that the petitioner has raised the demand while his services were terminated in the year 2008 and it is the negligence on the appropriate Government in making the reference in the year 2017 for which the petitioner could not be non-suited. He has further argued that Labour Officer had after going through the entire material

made this reference and the reference has to be answered by the Court in the manner as it has been posed. The learned counsel has further argued that the petitioner has never abandoned his work and plea as taken by the respondent is not proved by leading any evidence hence abandonment is not proved. According to him, the petitioner was liable to be treated in service during the few months in the year 2008 when he remained out of the job and his case for his fictional breaks is to be considered after holding that he would have completed 240 days of work in the year 2008 had his services been not terminated in the year 2008. He has thus prayed that there was merit in the petition and the same be allowed by granting the desired relief.

11. It is settled law that the Act is beneficial legislation and it has been passed in order to settle the labour and industrial disputes and to protect the workman from the exploitation at the hand of their employers. Being beneficial legislation it tilts towards the interest of the workmen and the Court has to presume the facts in favour of the workman unless those facts are specifically met by the respondent by leading evidence. In nutshell, the Court has to be very liberal while dealing with the claims of labourers and the workmen. Procedural wrangles and tangles cannot be given undue importance and weightage. At the same time, it is also settled law that beneficial legislation does not mean that the relief is granted to the class for whose benefits the law has come into being on mere asking. The Court no doubt has to be liberal while interpreting the provisions of the law yet the Court cannot be travel beyond the scope of the controversy in the name of beneficial legislation. A balance has thus to be maintained between the concept of beneficial legislation and the controversy involved.

12. Before proceeding further it is apposite to mention here that termination is not to be confused with fictional breaks. Termination of the services and fictional breaks cannot be used as a synonym to each other. Every termination can be a fictional break, whereas, every fictional break is not termination. Only those fictional breaks become termination in which the workman is never re-engaged. Once, a workman is given fictional breaks and then re-engaged then his services are not treated as terminated for the purpose of the Act. Rather it is said that fictional break was given and thereafter his services were re-engaged. In the case in hand, when the claim of the petitioner is examined as whole it become very much clear that the petitioner worked right from the year 1999 to year 2008 he was given several fictional breaks by the respondent and and thereafter his services were re-engaged. It is clear from the claim petition that the purpose of giving fictional break was to prevent him to complete 240 days in a calendar year so that he could not claimed regularization. The relief claimed also speaks of fictional breaks and prayer has been made that such fictional breaks be condoned. The pleadings are thus not in accordance with the reference received. The reference speaks of termination of the services of the petitioner in the year 2008, but the truth of the matter is that the petitioner was re-engaged in the year 2008 itself in the month of December and he worked for 22 days. Prior to this, the petitioner has worked upto July, 2008. The petitioner has not worked in the month of August to November, 2008 even for a single day. The petitioner thereafter worked for 329 days in the year 2009, 345 days in 2010, 348 days in 2011, 274 days in 2012, 240 days in 2013 and 296 days in 2014 and thereafter he worked on bill basis. Thus the services of the petitioner have not been terminated at all. Word 'Termination' could have been used had his services were never re-engaged. Once his services were re-engaged termination, if any, has to be treated as fictional break. There is no reference whatever regarding the fictional break. Rather the reference is with regard to alleged termination. The respondent has rightly pleaded in the reply that the services of the petitioner were never terminated in between 1999 to the year 2018. It is true that the demand was raised by the petitioner in the month of September, 2008 when he was out of the job but once he was re-engaged in December, 2008 this demand had become infructuous and there was no question of making the reference in the year 2017 regarding the alleged termination of the services of the petitioner in the year 2008. The reference regarding

the fictional breaks given time to time with a view to prevent the petitioner from claiming his regularization was never made.

13. It may be stated here that in case the Labour Officer does not make the reference on the demand raised by the workman, the workman is not without a remedy. He can invoke the writ jurisdiction of Hon'ble High Court and pray for appropriate directions to the labour department for making the reference to the Labour Court. In case a proper reference has not been made, in that case also, the workman is not without a remedy. He can request the Labour Office to modifying the reference by way of corrigendum and, in case, Labour Office refuses, he can approach the Hon'ble High Court and seek appropriate directions to the labour department so that proper reference is made and decided by the Court. In the case in hand, the petitioner raised the demand in September, 2008 but he was re-engaged in December, 2008 and thereafter he worked continuously upto the year 2018. This reference was made by the Government in the year 2017 with regard to the alleged termination of the services of the petitioner in the year 2008 without realizing that the petitioner was still in service and there was only a fictional breaks, if any, in the year 2008. The reference should have been regarding the fictional breaks and to ascertain and adjudicate the intentions of the respondent in giving such breaks. The reference was rather made regarding the termination of the services of the petitioner in the year 2008. It is settled law that the Court cannot travel beyond the reference but the Court has to limit itself to the reference and give the findings thereupon. Since the reference is with respect to the alleged termination of the services of the petitioner in the year 2008, therefore, this Court has no hesitation to hold that no termination of the services has been taken place in the year 2008 as the petitioner has worked till the year 2018 on the same post and was ultimately retired in the year 2018. When the petitioner had worked from the year 1999 till the year 2018 with the respondent question of termination does not arise at all. Rather fictional breaks have been given to the petitioner. The respondent even does not admit that any fictional breaks were given. The plea of respondent is that the petitioner was himself irregular in reporting to his duties and used to remain absent off and on. Whatever may be the factual position, this Court is not supposed to adjudicate the question of fictional breaks as this reference has not been made by the appropriate Government for adjudication. The claim filed by the petitioner is beyond the scope of the reference and evidence led by the petitioner is also beyond scope of the reference. The petitioner has examined himself as PW1 and the affidavit filed by him speaks of the fictional breaks right from the year 1999 till the year 2008. The petitioner has himself withheld the fact from this Court that he was re-engaged in the year 2008 itself and worked with the department upto the year 2018. This fact is revealed for the first time from the reply filed by the respondent and from the seniority list/mandays chart of the petitioner tendered on the record as Ext. RW1/B and Ext. RW1/C. The truth of the matter is further clear from another document Ext. RW1/D (it contains 12 pages) showing the period during which the petitioner has worked. It is clear from these documents that the petitioner has worked till the year 2018 with the respondent and he was not finally terminated in the year 2008 as alleged. The petitioner when subjected to cross-examination had denied the suggestions, but Shri Amit Sharma, the concerned Divisional Forest Officer in is affidavit Ext. RW1/A has specifically stated that the petitioner was still working in the respondent department even in the year 2018 and question of his termination did not arise at all. He was subjected to cross-examination wherein he admitted the correctness of letter Ext. P1 pertaining to regularization of daily waged worker and the result of DPC as Ext. P2. He has denied that the petitioner was removed from the work in the year 2008. He has admitted that no inquiry and no show case was given to the petitioner when he was not coming to work but all these suggestions pales into significance as the reference is not regarding the fictional breaks given time to time but the reference is regarding final termination having taken place in the year 2008. As aforesaid, there is ample material on the record to show that the services of the petitioner was never terminated in the year 2008 but he worked with the respondent till the year 2018. The reference regarding alleged termination of the services of the petitioner in the year 2008 is, therefore, not sustainable and there is no material on record to prove that the petitioner was terminated in the year

2008. As aforesaid, it is a case of fictional breaks regarding which no reference has been made by the appropriate Government. There is no reference regarding time to time termination and the plea of the petitioner cannot be considered. In view of the aforesaid discussions, the claim petition is not maintainable and all these issues are decided accordingly.

RELIEF

14. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 29th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 907/2016
Date of Institution : 24-12-2016
Date of Decision : 30-04-2022

Smt. Seema Rani w/o Shri Balwinder Singh, r/o V.P.O. Ambota, Tehsil Amb, District Una,
H.P. *Petitioner.*

Versus

The Principal, D.A.V. Senior Secondary Public School, Ambota, District Una, H.P.
. *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri N.L. Kaundal, Ld. AR

For the Respondent : Shri Rahul Gupta, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of services of Smt. Seema Rani w/o Shri Balwinder Singh, r/o V.P.O. Ambota, Tehsil Amb, District Una, H.P., who was employed as Aaya *w.e.f.* 01-04-2015 by the Principal, D.A.V. Senior Secondary Public School, Ambota, District Una, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The petitioner has pleaded in her statement of claim that the respondent Principal, DAV Senior Secondary Public School had advertised different posts lying vacant in the school and she applied for the post of Aaya in the year 2010. After having appeared before the interview/selection committee she was selected and she joined her duties as an Aaya *w.e.f.* 01.04.2010 and worked continuously in the said capacity till 31.3.2015. According to her, the school used to advertise the post of Aaya and other posts every year in the newspaper in 2015, whereas, Chapter 3 of general terms and conditions of the services of employees in the DAV schools/ colleges did not provide for appointment of teaching and non-teaching staff on contractual basis. As per the petitioner, her work remained fully satisfactory still her services were terminated in the year 2015 illegally when she was not permitted to enter the campus on 06.04.2015 as the respondent had given fictional breaks to all the non-teaching staff *w.e.f.* 01.04.2015 to 05.04.2015. Feeling aggrieved and compelled by the conduct of the respondent the petitioner approached President/Secretary of Union Branch Ambota and also filed a complaint before Labour Inspector against her illegal termination. The demand was also raised by her vide notice dated 28.4.2015 and she was not re-engaged. According to the petitioner she had worked for 240 days in each calendar year as well as in the last 12 calendar months preceding her illegal termination and the respondent has violated the provisions contained in Section 25-F (a) & (b), hence her illegal termination was liable to be set aside. One Smt. Alka is said to have been appointed in her place *w.e.f.* 16.4.2015 and one Smt. Ajay Kumari was appointed *w.e.f.* 01.10.2015 and there is thus violation of Section 25-H of the Act had taken place. On such averments, the petitioner prayed that her illegal termination be set aside and she be ordered to be reinstated with full back wages and continuity in service withall consequential benefits.

3. The respondent school has resisted and contested the petition and taken up the plea that petition was not maintainable and the petitioner did not fell in the definition of workman. It is submitted that she has no cause of action and the petition was premature and at the same time she was estopped from filing the petition. The respondent has also submitted that the court had no jurisdiction and petition was bad for non-joinder and mis-joinder of the parties. On merits, the respondent come up with the plea that the petitioner was engaged on contract basis hence provisions of the Industrial Disputes Act were not applicable and post of Aaya was not a regular post. It is clarified that the petitioner was appointed as an Aaya in May, 2010 on contract basis vide advertisement in Punjab Kesari and appointment letter was issued in her favour whereby she accepted the terms and conditions. The contract of the petitioner came to an end on 31 March, 2011 and she thereafter applied again for the same post on 24.04.2011 and she was appointed *w.e.f.* 02.04.2011 to 08.07.2011 *vide* letter dated 29.4.2011. She again accepted the terms and conditions of the appointment. Similarly, the petitioner was again appointed for fixed tenure *w.e.f.* 03.04.2012 to 31.03.2013 on consolidated salary of Rs. 4650/- per month and she accepted the terms and conditions on the letter dated 19.8.2012. She was again appointed as an Aaya on contract basis from 02.04.2013 to 31.3.2014 *vide* letter dated 07.9.2013. Lastly, she was appointed on contractual basis *w.e.f.* 03.4.2014 to 31.3.2015 *vide* letter dated 08.6.2014 and she had accepted the terms and conditions by signing the letter. As per the respondent, since the contract of the petitioner ended on 31.3.2015 it was not renewed hence there was no question of engaging fresh hand without giving priority to her. She is also said to have been filed false complaint on Police Station Gagraate and later she withdrew the same. As per the respondent there is neither violation of Section 25-F nor 25-H and 25-J of the Act as the petitioner was not a daily wager. The post was filled by advertising the same vide advertisement dated 28.02.2016 and the petitioner never applied

for appointment hence no provisions of the Act were violated. On such averments, the respondent prayed for dismissal of the petition.

4. The petitioner has filed rejoinder and reaffirmed the averments made in the petition and denied those made in the reply. It was specifically denied that the petitioner was engaged in the month of May, 2010 on contract basis. The petitioner prayed that the petition be allowed.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 02.07.2018 for determination:—

1. Whether the termination of the services of the petitioner by the respondent *w.e.f.* 01-04-2015 is/was legal and justified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*
4. Whether the petitioner has no cause of action to file present case as alleged? . . .*OPR.*
5. Whether the petitioner has no *locus standi* to file the present case as alleged? . . .*OPR.*
6. Whether the claim is premature as alleged? . . .*OPR.*
7. Whether the petitioner is estopped from filing the claim petition by her act and conduct as alleged? . . .*OPR.*
8. Whether this court has no jurisdiction to file the present case as alleged? . . .*OPR.*
9. Whether the petitioner has suppressed true and material facts from the Court as alleged? . . .*OPR.*
10. Whether the petition is bad for non-joinder and mis-joinder of necessary parties as alleged? . . .*OPR.*

Relief.

6. I have heard learned Authorized Representative as for the petitioner well as learned counsel for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	:	No
Issue No. 2	:	decided accordingly
Issue No. 3	:	No
Issue No. 4	:	No
Issue No. 5	:	No
Issue No. 6	:	No
Issue No. 7	:	No
Issue No. 8	:	No

Issue No. 9	:	No
Issue No.10	:	No
Relief	:	Petition is partly allowed as per operative portion of the Award

REASONS FOR FINDINGS

ISSUES No. 1 and 3 to 10

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The learned counsel appearing for the respondent has argued from the record that the petitioner was engaged for fixed tenure by the school *vide* appointment letter whereby she accepted the terms and conditions of the same. According to him since the tenure of fixed terms came to an end in the year 2015 therefore, no vested right was available to the petitioner and her services stood automatically terminated. Learned counsel has argued with vehemence that the case was governed by Section 2(oo) (bb) and since the contract was not renewed and it come to an end hence it was not retrenchment for the purpose of the act, hence, the provisions of Section 25 were not applicable. The learned counsel has referred various judgments *i.e.* **AIR 2000 SC 2681** Harmohinder Singh, Appellant v. Kharga Canteen, Ambala Cantt., Respondent, **AIR 2007 SC 519** Muir Mills Unit of N.T.C (U.P) Ltd. v. Swayam Prakash Srivastava & Anr., **AIR 2006 SC 2905** Municipal council, Samrala v. Sukhvinder Kaur, **Latest HLJ 2012 (HP) 1054** Cipla Ltd & Ors v/s State of Himachal Pradesh and **AIR 1996 SC 1001** State of Rajasthan and others Appellants v. Rameshwar Lal Gahlot and argued that expiry of fixed tenure of an employee was not retrenchment hence the petitioner was not entitled for any relief unless it was pleaded and proved that there was malafide on the part of the employer.

10. On the other hand, the learned Authorized Representative for the petitioner has argued that the rules and regulations of the school prohibited and did not speak of contractual appointments, and therefore, the services of the petitioner could not be engaged on contractual basis but she could be engaged as daily wager and was engaged as such, hence the case law was not applicable. He has further argued that documents have been prepared by the school in such a way so as to show that the petitioner was a contractual employee or on fixed term so that the provisions of the law providing protection to the workmen could be frustrated. He has argued that as per the settled law in case the employer engages workman for fixed tenure one after one for long time such practice amounts to unfair labour practices and the workman cannot be disengaged without having resort to the provisions of the Act. He has submitted that there is merit in the petition hence the same be allowed.

11. Before proceeding to appreciate the rival contentions, it may be stated here that the Industrial Disputes Act is a beneficial piece of legislation meant to redress the grievances of the workmen and labourers against their employer. The Act has come into being to ensure that the labourer/workmen are not subjected to exploitation and arbitrariness by the employers during the employment. In order to rule out the fear of being thrown out of the work by the employers on their whims and fancies, certain rules have been codified in the Act which are to be followed by every employer while dispensing with the services of such workmen. Section 25-F, Section 25-G and Section 25-H are the instances of such rules. Every presumption under the Act has to be drawn in favour of the workman and the employer has to prove everything by leading positive evidence, and in case, the positive evidence is not led by the employer on any issue or point, the presumption goes that the employer wanted to withhold the material that goes against him. The workman on the other hand, need not to lead overwhelming evidence to prove a point. It is suffice that the workman steps in the witness-box, states on oath about his case and successfully stands by the test of cross-examination. Once, such an exercise is completed by the workman, the entire

onus is shifted upon the employer, who is not only the custodian of the record of the employees but also duty bound to follow the prescribed norms while the workman works under him. Being the beneficial legislation, the strict rules of evidence are not applicable while adjudicating the reference. The court can look into even those documents which are not proved strictly in accordance with the Evidence Act yet their authenticity is beyond doubts. Such documents can at least be read against the party producing the same as such party intends the court to believe the same.

12. In the case in hand, the first and foremost question this court needs to address is whether the petitioner has worked as a daily wager or on contract basis for fixed terms? Once such question is fully addressed, it is only thereafter, the subsequent question regarding the alleged retrenchment can be answered. The petitioner has claimed that she was engaged as Aaya *w.e.f.* 01.04.2010 and she worked continuously till 31.03.2015. The case of the respondent on the other hand is to the effect that she was kept on fixed tenure from one academic year to another and she had accepted the terms and conditions of employment. Since this case is mostly based on documents, therefore, documentary evidence is very material for the adjudication of this reference. The Learned Counsel for the respondent has tendered on record certain advertisements as Mark A to Mark F, therefore, these documents can at least be read against the respondent despite of the fact that the same are not proved as per the law. Since the respondent is placing reliance on the same, therefore, the documents can be used against the school. Advertisement dated April 28, 2010 has been placed on the record as Mark F. This is a very relevant document and the petitioner is claimed to have been engaged in this process for the first time. When this advertisement is carefully gone through, it becomes clear that Walk-in-interview was held on 2nd May 2010 in the school campus for various posts including that of Aaya. This document does not speak of the contractual employment or about the fixed term of the employment. It is silent on this aspect. It is also not mentioned in the same that the tenure of the job shall be only for one year. When such is the nature of the advertisement, then from where the respondent came to the conclusion that the tenure of the employment shall be for one year only based on contract and thereafter fresh appointment shall be made? Even if it is presumed for a while that the petitioner participated in the walk-in-interview on 2 May 2010, then the appointment letter so issued to her was a very material document to ascertain the nature of the employment offered by the school and accepted by the petitioner. The petitioner appeared as PW1 in the witness-box and was subjected to cross-examination. She said that she was not well educated but had failed in 8th Class. Thus she is almost an illiterate woman not well conversant with English language and other official complications. She admitted that she was engaged in May 2010 on contract basis in accordance to the advertisement published in Punjab Kesari. She further admitted that she was appointed vide appointment letter Ext. RA. These admissions pales into insignificance when the documents placed on the record are examined. As aforesaid, the advertisement Mark F does not speak of contractual employment. Sh. Namit Sharma, the Principal of the school, a well educated person, when examined as RW1 in the witness-box shatters the case of the respondent on vital aspects. He denies in his cross-examination that no appointment letter was given to the petitioner on her initial appointment. He there after volunteered to speak that the Ext. RA is the first appointment letter. This document is thus very material. When this document is carefully examined, it becomes clear that it was issued on 29.04.2011 from the Office. A bare reading of this document shows that petitioner has applied for the post of teacher and her interview for this post was conducted on 24.04.11. It is further clear from this document that she was appointed as Aaya *w.e.f.* 2nd April 2011 to 08 July 2011. This documents thus pertains to the year 2011 and not to the year 2010. Then where is the appointment letter pertaining to the year 2010? The document has been withheld from the court. An attempt has been made to show a document pertaining to the year 2011 as the first appointment letter of the petitioner. When the advertisement Mark F does not speak of contractual/ fixed term engagement and the first appointment letter has not seen the light of the day, then adverse inference has to be drawn against the respondent. Only inference that can be drawn from the aforesaid material is that

no appointment letter was issued to the petitioner after she was engaged in the year 2010. Had there been any appointment letter, the same should have been placed on the record so that this court could examine the contents of the same and conclude whether fixed tenure employment was offered to the petitioner or she had accepted the same by signing the terms and conditions on the appointment letter. As aforesaid Ext. RA which is claimed as the first appointment letter was issued in the year 2011 and petitioner is shown to have been appointed as an Aaya *w.e.f.* April 2, 2011 to 8 July, 2011. Surprisingly this letter shows that petitioner was interviewed for the post of teacher and posted as an Aaya. The letter has been prepared in a casual manner without making the proper sense. When advertisement does not speak fixed term posts based on contracts and when the first appointment letter issued to the petitioner has not been proved on the record then how the court can presume that petitioner was engaged initially for one year on contract and fixed term and the petitioner had accepted the terms and conditions of her employment. Then comes the question of some admissions made by the petitioner in her cross-examination. The question arises whether those admissions are sufficient to dislodge her case. No doubt, the petitioner has admitted the very first question to the effect that she was appointed on contract basis in the year 2010 vide appointment letter Ext. RA, but when Ext. RA is not the appointment letter then this admission becomes stray and made by ignorant illiterate woman. This admission can not be given much weightage when there is no document to support such plea. After all the appointments of the petitioner has been done by the school and it is claimed that entire documentation was done. Such a plea could have been proved by way of documents alone. As aforesaid, Shri Namit Sharma, the Principal of the school, who is well educated has also failed to stand by the test of cross-examination and he has rather supported the case of the petitioner. He has admitted categorically that the petitioner was appointed as an Aaya in the school on 01.4.2010. This admission certainly can not be taken lightly as it has come out for the mouth of a responsible officer of the school who is the custodian of the record as well. The case of the petitioner has been to the effect that she was engaged on daily wages on 01.04.2010. The school though came with the plea that she was engaged in May, 2010 but failed to produce the appointment letter. Now position has been worsened by Shri Namit Sharma by admitting on oath that the petitioner was engaged on 01.04.2010. In case the petitioner was engaged in May, 2010 why the Principal of the school shall make such an admission that supports the case of the petitioner. The reason is obvious, the school intended to withhold material facts from the court but significant admission came out of the mouth of the school principal when he was cross-examined. Perhaps, the oath taken by him to speak the truth came in the way and he spoke the truth by admitting that the petitioner was appointed as an Aaya on 01.04.2010 in the school. This principal of school made further admission to the same effect during his further cross-examination. He admitted that the petitioner had worked continuously in the school from 01.4.2010 to 31.03.2015. When the petitioner is claimed to have been engaged in May, 2010 in the school, where was the occasion for the Principal to admit suggestion to the effect that the petitioner had worked continuously *w.e.f.* 01.04.2010 to 31.03.2015? The truth made its way through the mouth of the Principal of the school and he admitted not once but twice that the petitioner was engaged on 01.04.2010. These crucial admissions made by the Principal of the school are sufficient to ignore the admission made by the petitioner by taking into account the fact that petitioner is an illiterate woman and cannot be said to be well versed with the technicalities involved. The Principal of the school is not only custodian of the record but he is responsible for the overall management of the school and therefore, his admissions cannot be treated lightly but the same are liable to be accepted particularly when the first appointment letter of the petitioner had not been produced on the record. The petitioner is therefore, proved to be a daily wagee rather than appointed on contract for one year in the year 2010.

13. The subsequent appointment letters tendered on the record by the respondent have a different tale to tell. These documents also speak volumes of the manner in which documents are prepared in the school and got signed from those workmen who are either illiterate or semi literate.

As aforesaid, the Principal of the school has very categorically admitted that the petitioner has worked in the school continuously *w.e.f.* 01.04.2010 to 31.03.2015. Thus no break was ever given to her. In case, the plea of the respondent is considered for a while that contract ended on 31st March of every year then the subsequent documents shatter the case of the respondent fully. If the contract had ended on 31.03.2011 then the new appointment should have taken place before 31.3.2011 so that new appointee could join the duties on 1st April, 2011. The advertisement for the year 2011 has been tendered on the record as Mark-E. It also speaks walk-in- interview to be held on 2nd April, 2011 at 9 A.M. This document for the first time finds reference of the fact that appointment shall be purely on contract basis. In case, the petitioner was to work till 31st March, 2011 then the new appointment should have taken place before 31st March 2011 so that new appointee could resume the work on 01.04.2011. Had the intentions of the school been to engage workman for one year ending on 31st March every month why the interviews were held on 24th April, 2011? If interviews were held on 24 April, 2011 then who worked as an Aaya in between 31 March 2010 to 29.04.2011 when the appointment letter Ext. RA was issued. This appointment letter Ext. RA shows that appointment shall commence *w.e.f.* 2nd April, 2011. When the interviews were conducted on 24.4.2011 and letter was issued on 29.4.2011 then how the appointment of petitioner was to be presumed *w.e.f.* 2nd April, 2011. This is very suspicious and proves that the tenure of the petitioner has never ended on 31 March, 2011 and for this reason she has been shown to have been working from 2nd April, 2011 to 8th July, 2011 vide letter dated 29th April, 2011. Had any other person been selected by the interview committee on 24.4.2011 why such person shall be paid the salary *w.e.f.* 2nd April, 2011 by the school when the person was appointed on 29th April, 2011 and interview had taken place on 24.4.2011? When interview has taken place on 24.4.2011 how it was presumed that the petitioner shall be selected and she shall be made to work *w.e.f.* 2nd April, 2011. All these facts show that the services of the petitioner never came to an end and she worked continuously from April, 2010 and on 29 April, 2011 one appointment letter was prepared and got signed from the petitioner. This formula appears to have been followed merely to frustrate the provisions of the Industrial Disputes Act and ensure that no right is accrued in favour of the petitioner on account of her continuous working in the school for more than 12 calendar months. Ext. RB is another letter and it has a different story to tell. It was issued on 19 August, 2012 fully knowing that the tenure of the petitioner had ended on 31.3.2012. Then who worked in between? This appointment letter shows that the petitioner shall be treated on work *w.e.f.* 3rd April, 2012 to 31.3.2013. When the letter was issued on 19 August, 2012 how she could be treated as having worked from 3rd April, 2012. The reason is obvious that she was never disengaged but a letter was prepared to defeat her rights in the month of August 2012. The advertisement for this interview is Mark-D and it speaks of walk-in- interview held on 2nd April, 2012. If the interview was held on 2nd April, 2012 then why the appointment was made on 19 August, 2012. In case another person was selected in place of the petitioner appointment letter could not have been issued to him showing his appointment *w.e.f.* 2nd April 2012 to 31.3.2013. The school would have never paid him *w.e.f.* 3rd April, 2012 to 18 August, 2012. All these facts show that the documents were prepared merely to frustrate the claim of the petitioner and her services were never disengaged on 31 March, of every year as claimed.

14. Same is the position with respect to the year 2013-2014 Ext. RC is another appointment letter issued on 7 September, 2013 showing the engagement of the petitioner *w.e.f.* 2nd April, 2013 to 31.3.2014. Mark-C is the advertisement. The interview was taken on 14 April, 2013 and letter was issued on 7 September, 2013. The engagement of the petitioner was *w.e.f.* 02.4.2013 to 31.3.2014 when the interview of the petitioner had not taken place on or before 02.4.2013 and it took on 14 April, 2013, then how the petitioner could be treated as selected and appointed on 02.4.2013 for the purpose of salary. It means that her services were never terminated on 31 March, 2013. The appointment letter was prepared after five months and signatures of the petitioner were obtained on the same. When half tenure of the engagement has already been over how terms and conditions could be imposed upon the workman. The last appointment letter is

Ext. RD. It is equally suspicious. It pertains to the year 2014-2015. The advertisement for the same is Mark-A dated 28 February, 2015. There is not even date of interview in this advertisement. It is not at all clear as to when interview was taken. Again the appointment was done on 8 July, 2014 but salary was released *w.e.f.* 03.4.2014. this fact again shows that the petitioner was not terminated on 31.3.2014. Had she been terminated on completion of the tenure of the contract, the school would not have paid her salary *w.e.f.* 03.4.2014 when she was appointed on 8 June, 2014 *vide* appointment letter. Obtaining signatures of the petitioner on this document is of no consequence. It is in the aforesaid background the services of the petitioner were disengaged on 31.3.2015. Another woman namely Smt. Alka was engaged as Aaya in her place. The petitioner was not permitted to enter the school nor any notice was issued to her nor the provisions of Section 25-F were complied with. Since the petitioner is proved to have been working with the respondent *w.e.f.* April, 2010 upto 31.3.2015 with a break of day or two every year, it is proved that she has worked for more than 240 days preceding her final termination on 01.4.2015. So far as the rulings cited by Shri Rahul Gupta, learned counsel for the respondent are concerned they deal with the contractual appointment and it has been held by the Hon'ble Courts that when the term of contract expires and the services of the employee are dispensed with, such act does not amount to retrenchment. It has also been held that the termination of the services in such cases is co-terminus with the contract and the workman can not claim any right to stay back. In the present case, the respondent has failed to prove on the record that the petitioner was engaged on year to year basis on contracts and her services were dispensed with on the 31 March of every year. For the reasons already discussed in detail it has been established that the petitioner was initially engaged in April, 2010 and she worked continuously till 31.3.2015 and some paper work was done in the middle of the tenure in order to show that she was appointed on contract. The respondent has failed to prove the plea as taken by it and the petitioner has been able to prove that she was engaged in April, 2010 and worked continuously till 31.3.2015. she is not proved to be appointed on contracts, hence the rulings cited on behalf of the respondent are not applicable. The petitioner is proved to be treated a daily wage and her services could not have been terminated without complying with the provisions contained in Section 25-F of the Act and she is proved to have been working for more than 240 days in 12 calendar months preceding her verbal termination. The school has withheld the material facts from the court and has not supplied the record regarding the attendance of the petitioner marked in the school to let this court know the truth. When it has been categorically admitted by the Principal of the school that the petitioner has worked continuously till 31.3.2015 then the plea of contractual engagement fails as several documents discussed hereinabove show that they were prepared in the middle of the tenure by showing continuity of the contracts merely to frustrate the claim of the petitioner. Had the school come to the court with clean hands it would have proved on the record results of the interview committee prepared every year to show that several other candidates also appeared in interviews but the petitioner was selected every time for the post and rest of the candidates were rejected. No proceedings regarding interview and final results have been proved on the record and the paper work is proved to have been done in order to frustrate the provisions of the law. Not only the provisions contained in Section 25-F are violated, but the provisions of Section 25-H are also proved to have been violated as after termination of the services of the petitioner two Aaya's were engaged and the petitioner was not called for.

15. There is some other evidence on the record consisting of the complaints made by the petitioner to the union Ext.PW1/D, Ext.PW1/E etc. which are not very relevant. Ext. RE is a complaint made by the petitioner to the Police and it was withdrawn by document Ext. RF. It has no relevance to the present case. In case the petitioner was found not suitable for the job she could have terminated by following the provisions of law and her services could not have been terminated orally as has been done in the instant case. Thus it is held that the services of the petitioner were terminated illegally *w.e.f.* 01.04.2015 and the petition is maintainable, the petitioner has also cause of action and locus standi to file the petition. She is also not estopped to file the petition by her own act and conduct. This court has the jurisdiction to deal with the reference and the petitioner has not

suppressed material facts from the court. It is the respondent who has suppressed the material facts from the court. The petition is also not premature as the services of the petitioner were verbally terminated and she has approached the Labour Office and the Labour Office feeling satisfied made the reference. The petition is also not bad for non-joinder and mis-joinder of necessary parties. Issue no.1 is answered in affirmative and issues no. 3,4,5,6,7,8,9 and 10 are held in negative and against the respondent.

ISSUE No. 2

16. In view of findings on the issues hereinabove the petitioner is held entitled for reinstatement as an Aaya with continuity in service and seniority. The petitioner has specifically pleaded and proved that she has remained unemployed after her termination and was not gainfully employed. There is no cross-examination on this aspect by the respondent. The respondent has also not led any evidence to the contrary. Since the petitioner is not gain fully employed, she is held entitled for back wages. Since she has not worked in the school after the termination, the principles of no work no pay are to be kept in mind. Keeping in mind the fact that petitioner was always willing to work, the interest of justice shall be met in case she is held entitled for 25 percent of the back wages *w.e.f.* her termination to the date of her reinstatement. This issues is answered accordingly.

RELIEF

17. In view of my discussion on the above issues, the claim petition is succeed in part and partly allowed. The respondent is directed to reinstate the services of the petitioner forthwith. She is entitled for seniority and continuity in service from the date of her illegal termination and 25 percent of the wages as back wages *w.e.f.* the date of her termination to the date of her reinstatement. Parties are left to bear their costs.

18. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

हिमाचल प्रदेश सरकार
“निर्वाचन विभाग”

अधिसूचना

दिनांक, शिमला-171009, 5 जुलाई, 2022

संख्या 3-1/2022-ई.एल.एन.-I.—भारत निर्वाचन आयोग की अधिसूचना संख्या: 479/16/2022, दिनांक 05 जुलाई, 2022 तदनुसार आषाढ़ 14, 1944 (शक) जो कि राष्ट्रपतीय निर्वाचन, 2022 के मतों की गणना से सम्बन्धित है, को अंग्रेजी रूपान्तर सहित जनसाधारण की सूचना हेतु प्रकाशित किया जाता है।

आदेश से,

मनीष गर्ग,
मुख्य निर्वाचन अधिकारी,
हिमाचल प्रदेश।

भारत निर्वाचन आयोग
निर्वाचन सदन, अशोक रोड़, नई दिल्ली-110001

अधिसूचना

दिनांक: 05 जुलाई, 2022
आषाढ़ 14, 1944 (शक)

सं. 479/16/2022.—राष्ट्रपतीय और उपराष्ट्रपतीय निर्वाचन नियम, 1974 के नियम 27 के अनुपालन में, भारत निर्वाचन आयोग एतद्वारा 21 जुलाई, 2022 (गुरुवार) को पूर्वाह्न 11.00 बजे का समय, राष्ट्रपतीय निर्वाचन, 2022 की मतगणना के लिए रिटर्निंग अधिकारी के कार्यालय कमरा नं. 63, प्रथम तल, संसद भवन, नई दिल्ली में नियत करता है।

आदेश से,

(सुमन कुमार दास),
सचिव।

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

NOTIFICATION

Dated: 05th July, 2022
Ashadha 14, 1944 (Saka)

No. 479/16/2022.—In pursuance of Rule 27 of the Presidential and Vice-Presidential Elections Rules, 1974, the Election Commission of India hereby appoints the 21st July, 2022 (Thursday) as the day on which, and 11:00 A.M. of that day as the time at which, the counting of votes, for the Presidential Election, 2022, shall take place at the office of the Returning Officer at Room No. 63, First Floor, Parliament House, New Delhi.

By order,

(SUMAN KUMAR DAS),
SECRETARY.

हिमाचल प्रदेश सरकार
"निर्वाचन विभाग"

अधिसूचना

दिनांक : शिमला-171009, 5 जुलाई, 2022

संख्या 3-1/2022-ई.एल.एन.-I.—भारत निर्वाचन आयोग की अधिसूचना संख्या: 480/2022 व 480/2022(1), दोनों दिनांक 5 जुलाई, 2022 तदनुसार आषाढ़ 14, 1944 (शक), जो कि भारत के उपराष्ट्रपति

पद के लिए निर्वाचन तथा निर्वाचन के मतदान का स्थान, मतदान का समय नियत करने से सम्बन्धित है, को अंग्रेजी रूपान्तर सहित जनसाधारण की सूचना हेतु प्रकाशित किया जाता है।

आदेश से,

मनीष गर्ग,
मुख्य निर्वाचन अधिकारी,
हिमाचल प्रदेश।

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001

अधिसूचना

दिनांक: 5 जुलाई, 2022
आषाढ़ 14, 1944 (शक)

सं. 480/2022.—यतः, श्री एम. वेंकैया नायडु, भारत के उपराष्ट्रपति की पदावधि, संविधान के अनुच्छेद 67 की शर्तों पर, 10 अगस्त, 2022 को समाप्त हो रही है; और

यतः पदधारित उपराष्ट्रपति की पदावधि समाप्त होने तथा उनका कार्यकाल समाप्त होने के पूर्व, इस प्रकार उत्पन्न हुई रिक्ति को भरने के प्रयोजन से, संविधान के अनुच्छेद 68 के खण्ड (1) की शर्तों पर निर्वाचन कराया जाना है; और

यतः राष्ट्रपतीय और उपराष्ट्रपतीय निर्वाचन अधिनियम, 1952 (1952 का 31) की धारा 4 की उपधारा (3) के अधीन भारत निर्वाचन आयोग द्वारा भारत के उपराष्ट्रपति के पद को भरने के लिए निर्वाचन हेतु तारीख इस प्रकार नियत की जानी अपेक्षित है कि निर्वाचन ऐसे समय तक पूर्ण हो जाए और निर्वाचित उपराष्ट्रपति अपना पद 11 अगस्त, 2022 को ग्रहण करने में समर्थ हो सकें;

अतः अब, भारत निर्वाचन आयोग एतद्वारा:—

(अ) संविधान के अनुच्छेद 66 में निर्दिष्ट निर्वाचक मंडल से यह अपेक्षा करता है कि वे संविधान के प्रावधानों के अनुसार, राष्ट्रपतीय और उपराष्ट्रपतीय निर्वाचन अधिनियम, 1952 (1952 का 31) और तदधीन बनाए गए नियमों और उनके तहत जारी किए गए आदेशों के उपबन्धों के अनुसार, वर्तमान उपराष्ट्रपति की अवधि खत्म होने से पूर्व भारत के उपराष्ट्रपति के पद को भरने के लिए एक व्यक्ति निर्वाचित कर दें; और

(आ) उक्त अधिनियम की धारा 4 की उपधारा (1) के अनुसरण में निम्नलिखित निर्धारित करता है:

- | | |
|--|-----------------------------|
| (क) नामनिर्देशन की अन्तिम तारीख | : 19 जुलाई, 2022 (मंगलवार) |
| (ख) नामनिर्देशन की संवीक्षा की तारीख | : 20 जुलाई, 2022 (बुधवार) |
| (ग) अभ्यर्थिताएं वापस लेने की अन्तिम तारीख | : 22 जुलाई, 2022 (शुक्रवार) |
| (घ) वह तारीख जिसको, यदि आवश्यक हुआ, तो मतदान होगा: | 6 अगस्त, 2022 (शनिवार) |

आदेश से,

(नरेन्द्र ना0 बुटोलिया),
वरिष्ठ प्रधान सचिव।

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

NOTIFICATION

*Dated: 05th July, 2022
Ashadha 14, 1944 (Saka)*

No. 480/2022.—Whereas, the term of office of Shri M. Venkaiah Naidu, Vice-President of India, is upto 10th day of August, 2022, in terms of Article 67 of the Constitution; and

Whereas, an election is due to be held, in terms of clause (1) of Article 68 of the Constitution, to fill the vacancy to be caused by the expiration of the term of office of the incumbent Vice-President before the expiration of term of his office; and

Whereas, under sub-section (3) of Section 4 of the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952), the Election Commission of India is required to so appoint the dates for the election to fill the office of the Vice-President of India that the election will be completed at such time as will enable the Vice-President thereby elected to enter upon his office on the 11th day of August, 2022;

Now, therefore, the Election Commission of India hereby—

- (A) **calls upon** the Electoral College, referred to in Article 66 of the Constitution, to elect a person to fill the above vacancy in the Office of Vice-President of India before the expiration of the term of the incumbent Vice-President, in accordance with the provisions of the Constitution, the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952), and the Rules and Orders made thereunder; and
- (B) in pursuance of sub-section (1) of Section 4 of the said Act, appoints—
- (a) **the 19th July, 2022 (Tuesday), as the last date for making nominations;**
 - (b) **the 20th July, 2022 (Wednesday), as the date for scrutiny of the nominations;**
 - (c) **the 22nd July, 2022 (Friday), as the last date for the withdrawal of candidatures; and**
 - (d) **the 6th August, 2022 (Saturday), as the date on which a poll shall, if necessary, be taken.**

By order,

(NARENDRA N. BUTOLIA),
SR. PRINCIPAL SECRETARY.

भारत निर्वाचन आयोग
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001

अधिसूचना

दिनांक: 5 जुलाई, 2022
आषाढ़ 14, 1944 (शक)

सं. 480/2022(1).—राष्ट्रपतीय और उपराष्ट्रपतीय निर्वाचन नियम, 1974 के नियम 8 के अनुसरण में, भारत निर्वाचन आयोग एतद्वारा—

- (क) अपनी दिनांक 5 जुलाई, 2022 की अधिसूचना संख्या 480/2022 के अनुसार उपराष्ट्रपतीय निर्वाचन के लिए मतदान का स्थान कमरा संख्या 63, संसद भवन, नई दिल्ली नियत करता है; और
- (ख) 10:00 बजे पूर्वाह्न से 05:00 बजे अपराह्न दोनों को सम्मिलित करते हुए तक का समय ऐसे समय के रूप में विनिर्दिष्ट करता है जिसके, यदि आवश्यक हुआ तो, उक्त स्थान पर मतदान होगा।

आदेश से,

(नरेन्द्र ना0 बुटोलिया),
वरिष्ठ प्रधान सचिव।

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

NOTIFICATION

Dated: 5th July, 2022
Ashadha 14, 1944 (Saka)

No. 480/2022 (1).—In pursuance of Rule 8 of the Presidential and Vice-Presidential Elections Rules, 1974, the Election Commission of India hereby;

- (a) fixes Room No. 63, Parliament House, New Delhi as the place of polling for the Vice-President Election to be held in accordance with its Notification No. 480/2022, dated the 5th July, 2022; and
- (b) specifies the hours from 10.00 A.M. to 5.00 P.M. both inclusive to be the hours during which the poll, if necessary, will be taken at the said place of polling.

By order,

(NARENDRA N. BUTOLIA),
SR. PRINCIPAL SECRETARY.

In the Court of Sub-Divisional Magistrate, Chamba, District Chamba (H. P.)

Sarvan s/o Shri Dharam Pal, aged 21 years, resident of Village Saroth, P.O. Sahoo, Tehsil & Distt. Chamba, H.P. (Bridegroom/Husband).

and

Arti d/o Sh. Rattan Chand, aged 26 years, resident of V.P.O. Mangla, Tehsil & Distt. Chamba, H.P. (Bride/Wife) . . Applicants.

Versus

The General Public

Subject.— Registration of Marriage under section 8(4) of the H.P. Registration of Marriages Act, 1996 (Act No. 21 of 1997).

Whereas, the above named applicants have made an application before me under section 8(4) of H.P. Registration of Marriages Act, 1996 alongwith relevant records and affidavits stating therein that they have solemnized their marriage on 10-07-2019 at their place of residence with prevailing rites and customs but due to some un-avoidable circumstances it could not be entered in the records of Gram Panchayat Protha, Development Block Chamba well in time;

And whereas, they have also stated that they were not aware of the laws for the registration of marriage with the Registrar of Marriages and now, therefore, necessary order for the registration of their marriage be passed, so that their marriage could be registered by the concerned authority.

Now, therefore, objections are invited from the general public that if, anyone has any objection regarding the registration of marriage of above named applicants, they should appear before the undersigned in my court on or before 23-07-2022 at 2.00 P.M. either personally or through their authorised agent/pleader.

In the event of their failure to do so, orders shall be passed *ex-parte* for the registration of marriage without affording any further opportunity of being heard.

Issued under my hand and seal of the court on this 22nd day of June, 2022.

Seal.

ARUN KUMAR SHARMA (HPAS),
Sub-Divisional Magistrate,
Chamba, District Chamba (H.P.).

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2022

तारीख पेशी : 18-07-2022

अक्षित कुमार पुत्र सुपी राम, निवासी गांव/मुहल्ला वडग्रां, तहसील भरमौर, जिला चम्बा (हि0 प्र0)

बनाम

आम जनता एवं नगर परिषद् चम्बा

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थी सुपी राम पुत्र रतनो, निवासी गांव/मुहल्ला वडग्रां, तहसील भरमौर, जिला चम्बा (हि0 प्र0) ने इस कार्यालय में आवेदन किया है कि उसके लड़के नामक अक्षित का जन्म दिनांक 01-05-2017 को हुआ है, लेकिन जन्म से सम्बन्धित घटना नगर परिषद् चम्बा के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इश्तहार द्वारा सूचित किया जाता है कि प्रार्थी श्री सुपी राम पुत्र रतनो, निवासी गांव/मुहल्ला वडग्रां, तहसील भरमौर, जिला चम्बा (हि0 प्र0) के लड़के की जन्म तिथि 01-05-2017 नगर परिषद् चम्बा के कार्यालय के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इश्तहार के प्रकाशन के एक माह के

भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी सुपी राम पुत्र रतनो, निवासी गांव/मुहल्ला वडग्रां, तहसील भरमौर, जिला चम्बा (हि0 प्र0) के लड़के की जन्म तिथि 01-05-2017 नगर परिषद् चम्बा के कार्यालय के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 17-06-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2022

तारीख पेशी : 18-07-2022

1. रेशमा पुत्री लतीफ, निवासी गांव/मुहल्ला झल, परगना गुदियाल, तहसील व जिला चम्बा (हि0 प्र0)
2. शम्मी पुत्र लतीफ, निवासी गांव/मुहल्ला झल, परगना गुदियाल, तहसील व जिला चम्बा (हि0 प्र0)

बनाम

आम जनता एवं ग्राम पंचायत बरौर चम्बा

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थी लतीफ मोहम्मद पुत्र नूर हसन, निवासी गांव/मुहल्ला झल, परगना गुदियाल, तहसील व जिला चम्बा (हि0प्र0) ने इस कार्यालय में आवेदन किया है कि उसके लड़के नामक शम्मी की जन्म तिथि 10-09-2016 व लड़की नामक रेशमा की जन्म तिथि 12-12-2014 है, लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत बरौर, विकास खण्ड चम्बा के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी के लड़के नामक शम्मी की जन्म तिथि 10-09-2016 व लड़की नामक रेशमा की जन्म तिथि 12-12-2014 ग्राम पंचायत बरौर, विकास खण्ड चम्बा के कार्यालय के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के लड़के नामक शम्मी की जन्म तिथि 10-09-2016 व लड़की नामक रेशमा की जन्म तिथि 12-12-2014 ग्राम पंचायत बरौर, विकास खण्ड चम्बा के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 17-06-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2022

तारीख पेशी : 23-07-2022

घिमो राम पुत्र चतरो, निवासी गांव/मुहल्ला जीनु, परगना पंजला, तहसील व जिला चम्बा (हि0 प्र0)

बनाम

आम जनता एवं ग्राम पंचायत वाट

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थी अभिमन्यु पुत्र राज कुमार, निवासी गांव/मुहल्ला जीनु, परगना पंजला, तहसील व जिला चम्बा (हि0 प्र0) ने इस कार्यालय में आवेदन किया है कि उसके चाचा की मृत्यु दिनांक 16-07-1983 को हुई है, लेकिन मृत्यु से सम्बन्धित घटना ग्राम पंचायत वाट, विकास खण्ड मैहला के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी अभिमन्यु, निवासी गांव/मुहल्ला जीनु, परगना पंजला, तहसील व जिला चम्बा (हि0 प्र0) के चाचा की मृत्यु तिथि 16-07-1983 ग्राम पंचायत वाट, विकास खण्ड मैहला के अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असातन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के चाचा की मृत्यु तिथि 16-07-1983 ग्राम पंचायत वाट, विकास खण्ड मैहला के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 23-05-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2021

तारीख पेशी : 23-07-2022

राज कुमार पुत्र चतरो, निवासी गांव/मुहल्ला जीनु, परगना पंजला, तहसील व जिला चम्बा (हि0 प्र0)

बनाम

आम जनता एवं ग्राम पंचायत वाट

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थी अभिमन्यु पुत्र राज कुमार, निवासी गांव/मुहल्ला जीनु, परगना पंजला, तहसील व जिला चम्बा (हि0 प्र0) ने इस कार्यालय में आवेदन किया है कि उसके पिता की मृत्यु दिनांक 20-09-2000 को हुई है, लेकिन मृत्यु से सम्बन्धित घटना ग्राम पंचायत वाट, विकास खण्ड मैहला के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी अभिमन्यु, निवासी गांव/मुहल्ला जीनु, परगना पंजला, तहसील व जिला चम्बा (हि0 प्र0) के पिता की मृत्यु तिथि 20-09-2000 ग्राम पंचायत वाट, विकास खण्ड मैहला के अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असातन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पिता की मृत्यु दिनांक 20-09-2000 ग्राम पंचायत वाट, विकास खण्ड मैहला के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 23-05-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2022

तारीख पेशी : 18-07-2022

1. आशीश कुमार पुत्र मुकेश कुमार, निवासी गांव/मुहल्ला खंडेरी, परगना गुदियाल, तहसील व जिला चम्बा (हि0 प्र0)

2. हिमांशु पुत्र मुकेश कुमार, निवासी गांव/मुहल्ला खंडेरी, परगना गुदियाल, तहसील व जिला चम्बा (हि0 प्र0)

बनाम

आम जनता एवं ग्राम पंचायत बरौर चम्बा

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थिया मनीशा पत्नी मुकेश कुमार, निवासी गांव/मुहल्ला खंडेरी, परगना गुदियाल, तहसील व जिला चम्बा (हि0प्र0) ने इस कार्यालय में आवेदन किया है कि उसके लड़के नामक आशीश कुमार की जन्म तिथि 16-12-2010 व हिमांशु की जन्म तिथि 12-10-2009 है, लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत बरौर, विकास खण्ड चम्बा के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया के लड़के नामक आशीश कुमार की जन्म तिथि 16-12-2010 व हिमांशु की जन्म तिथि 12-10-2009 ग्राम पंचायत बरौर, विकास खण्ड चम्बा के कार्यालय के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया के लड़के नामक आशीश कुमार की जन्म तिथि 16-12-2010 व हिमांशु की जन्म तिथि 12-10-2009 ग्राम पंचायत बरौर, विकास खण्ड चम्बा के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 17-06-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2022

तारीख पेशी : 18-07-2022

नितिन कुमार पुत्र प्रदीप, निवासी गांव/मुहल्ला खंडेरी, परगना गुदियाल, तहसील व जिला चम्बा (हि0 प्र0)

बनाम

आम जनता एवं ग्राम पंचायत बरौर चम्बा

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थी प्रदीप पुत्र किशन चन्द, निवासी गांव/मुहल्ला खंडेरी, परगना गुदियाल, तहसील व जिला चम्बा (हि0 प्र0) ने इस कार्यालय में आवेदन किया है कि उसके लड़के नामक नितिन की जन्म तिथि 25-09-2009 है, लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत बरौर, विकास खण्ड चम्बा के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी के लड़के नामक नितिन की जन्म तिथि 25-09-2009 ग्राम पंचायत बरौर, विकास खण्ड चम्बा के कार्यालय के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के लड़के नामक नितिन की जन्म तिथि 25-09-2009 ग्राम पंचायत बरौर, विकास खण्ड चम्बा के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 17-06-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार, तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : /तहसील/रीडर/2022

तारीख पेशी : 18-07-2022

1. ईशांत पुत्र नरेंदर, निवासी गांव/मुहल्ला वलियारा, परगना गुदियाल, तहसील व जिला चम्बा (हि0प्र0)
2. खुशी पुत्री नरेंदर, निवासी गांव/मुहल्ला वलियारा, परगना गुदियाल, तहसील व जिला चम्बा (हि0प्र0)

बनाम

आम जनता एवं ग्राम पंचायत बरौर चम्बा

विषय.—दरखास्त जेर धारा 13(3) पंजीकरण जन्म एवं मृत्यु दर्ज करने बारा।

प्रार्थी नरेंदर कुमार पुत्र सगतो, निवासी गांव/मुहल्ला वलियारा, परगना गुदियाल, तहसील व जिला चम्बा (हि0प्र0) ने इस कार्यालय में आवेदन किया है कि उसके लड़के नामक ईशांत की जन्म तिथि 16-02-2014 व लड़की नामक खुशी की जन्म तिथि 17-09-2011 है, लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत पलुंह, विकास खण्ड चम्बा के कार्यालय में दर्ज न हुई है।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी के लड़के नामक ईशांत की जन्म तिथि 16-02-2014 व लड़की नामक खुशी की जन्म तिथि 17-09-2011 है, ग्राम पंचायत पलुंह, विकास खण्ड चम्बा के कार्यालय के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के लड़के नामक ईशांत की जन्म तिथि 16-02-2014 व लड़की नामक खुशी की जन्म तिथि 17-09-2011 है, ग्राम पंचायत पलुंह, विकास खण्ड चम्बा के जन्म/मृत्यु अभिलेख में दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जाएंगे।

आज दिनांक 17-06-2022 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं तहसीलदार चुराह, जिला चम्बा (हि0 प्र0)

मिसल नम्बर : 2

तह0 वाचक0 चुराह/2022

तारीख दायरा : 17-02-2022

श्री जय सिंह पुत्र श्री लोचू गांव हिमगिरी कोठी, परगना हिमगिरी, तहसील चुराह, जिला चम्बा (हि0प्र0)

बनाम

आम जनता

विषय.—पंचायत अभिलेख हिमगिरी के जन्म एवं मृत्यु रजिस्टर में जन्म पंजीकरण करने बारे प्रार्थना-पत्र।

प्रार्थी श्री जय सिंह पुत्र श्री लोचू गांव हिमगिरी कोठी, परगना हिमगिरी, तहसील चुराह, जिला चम्बा (हि0प्र0) ने आवेदन पेश किया है जिसके साथ ब्यान हल्फी, C.M.O. चम्बा, अप्राप्यता प्रमाण-पत्र परिवार नकल इस आशय से प्रस्तुत किया है कि उसके निम्नलिखित बच्चों का जन्म पंजीकरण ग्राम पंचायत हिमगिरी में करने का अनुरोध किया है :-

क्र0 सं0	बच्चों का नाम	आवेदक से सम्बन्ध	जन्म तिथि
1.	संतोष कुमार	पुत्र	10-07-2007
2.	ज्योति	पुत्री	12-10-2009
3.	किरन	पुत्री	01-12-2010
4.	दिवेश कुमार	पुत्र	15-12-2015
5.	खुशी	पुत्री	11-07-2020

इस इश्तहार के माध्यम से आम जनता को सूचित किया जाता है कि पंजीकरण ग्राम पंचायत हिमगिरी में करने बारा किसी प्रकार का कोई उजर व एतराज हो तो असालतन व वकालतन में इस इश्तहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर सुबह 10.00 बजे से शाम 5.00 बजे तक कार्य दिवस में अपना उजर एवं एतराज पेश कर सकते हैं। बाद तारीख किसी किस्म का उजर नहीं सुना जायेगा व प्रार्थी के बच्चों का जन्म पंजीकरण करने बारा आदेश सचिव ग्राम पंचायत हिमगिरी, तहसील चुराह को आदेश दे दिए जायेंगे।

यह इश्तहार हमारे हस्ताक्षर व मोहर अदालत से आज 17-06-2022 को जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं तहसीलदार,
चुराह, जिला चम्बा (हि0 प्र0)।

ब अदालत सहायक समाहर्ता द्वितीय वर्ग, ककीरा, जिला चम्बा, हिमाचल प्रदेश

श्री जगदीश चन्द सुपुत्र श्री धनी राम, निवासी गुणा, डाकघर तुनुहट्टी, उप-तहसील ककीरा, जिला चम्बा, हिमाचल प्रदेश

बनाम

आम जनता

विषय.—प्रार्थना-पत्र बराये नाम दुरुस्ती बारे।

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय अन्य कागजात इस आशय से गुजारा है कि उसका नाम जगदीश चन्द है, जोकि ग्राम पंचायत तुनुहट्टी के नकल परिवार रजिस्टर, आधार कार्ड में सही दर्ज है लेकिन राजस्व विभाग के मुहाल रौणी में गलती से जगदीश सिंह दर्ज है, जिसकी दुरुस्ती की जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी के नाम की दुरुस्ती बारे यदि किसी को कोई उजर/एतराज हो तो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी दिनांक 23-07-2022 को हाजिर आकर अपना एतराज दर्ज करवा सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती के आदेश दे दिये जाएंगे।

आज दिनांक 18-06-2022 को मेरे हस्ताक्षर व अदालत मोहर से जारी हुआ।
मोहर।

हस्ताक्षरित /—
(ज्ञान चन्द),
सहायक समाहर्ता द्वितीय वर्ग,
ककीरा, जिला चम्बा, हिमाचल प्रदेश।

ब अदालत कार्यकारी दण्डाधिकारी, ऊना, जिला ऊना (हि0 प्र0)

केस नं० : 1/T/2022

किस्म मुकद्दमा : जन्म पंजीकरण

तारीख पेशी : 21-07-2022

गिरवल पुत्र श्री दौलत, निवासी लाल सिंगी, डा0 रायेंसरी, तहसील व जिला ऊना (हि0प्र0) वादी।
बनाम

आम जनता

प्रतिवादी।

प्रार्थना-पत्र-जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 प्रार्थी गिरवल पुत्र श्री दौलत, निवासी लाल सिंगी, डा0 रायेंसरी, तहसील व जिला ऊना (हि0प्र0) बाबत दिए जाने आदेश रजिस्ट्रेशन जन्म पंजीकरण ग्राम पंचायत लाल सिंगी, तहसील व जिला ऊना (हि0प्र0)।

प्रार्थना-पत्र प्रार्थी गिरवल पुत्र श्री दौलत, निवासी लाल सिंगी, डा0 रायेंसरी, तहसील व जिला ऊना ने इस अदालत में प्रार्थना-पत्र दायर किया है कि उसकी पुत्री नैना का जन्म गांव लाल सिंगी में दिनांक 19-11-2017 को हुआ था लेकिन अनभिज्ञता के कारण जन्म का इन्द्राज स्थानीय जन्म व मृत्यु पंजीकरण ग्राम पंचायत लाल सिंगी, तहसील व जिला ऊना, हि0प्र0 के रिकार्ड में दर्ज न करवा सका है।

अतः इस नोटिस इश्तहार राजपत्र, हिमाचल प्रदेश व मुस्त्री मुनादी चस्पांगी के माध्यम से आम जनता तथा सम्बन्धित रिश्तेदारों व हितबद्ध को सूचित किया जाता है कि अगर किसी को उपरोक्त जन्म पंजीकरण बारे कोई उजर व एतराज हो तो दिनांक तारीख पेशी 21-07-2022 को सुबह 10 बजे इस न्यायालय में असालतन या वकालतन अपना एतराज अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर पेश कर सकता है अन्यथा उपरोक्त जन्म पंजीकरण करने के आदेश दे दिए जाएंगे उसके उपरान्त कोई एतराज काबिले समायत न होगा।

आज दिनांक 21-06-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।
मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
ऊना, जिला ऊना (हि0प्र0)।

व अदालत जनाब सहायक समाहर्ता द्वितीय श्रेणी ऊना, जिला ऊना (हि0प्र0)

डिस्पैच नं० : 407/रीडर-2

किस्म मुकद्दमा : नाम दुरुस्ती

तारीख पेशी : 25-07-2022

श्री राम लाल पुत्र श्री लच्छमण, वासी गांव उपरली वसोली, तहसील व जिला ऊना (हि0प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना-पत्र-नाम दुरुस्ती प्रार्थी श्री शाम लाल पुत्र श्री लच्छमण दास, वासी गांव उपरली वसोली, तहसील व जिला ऊना (हि0प्र0)

प्रार्थना-पत्र नाम दुरुस्ती प्रार्थी श्री शाम लाल पुत्र श्री लच्छमण दास, वासी गांव उपरली वसोली, तहसील व जिला ऊना (हि0प्र0) ने इस अदालत में प्रार्थना-पत्र दायर किया है कि उसका नाम राजस्व अभिलेख उपमहाल वसोली उपरली में राम लाल दर्ज है जबकि उसका सही नाम शाम लाल है लिहाजा इसे दुरुस्त करके शाम लाल किया जाए, शपथ-पत्र, आधार कार्ड, स्कूल प्रमाण-पत्र, वोटर कार्ड, नकल जमाबन्दी 2014-15 उप-महाल वसोली उपरली तथा अन्य कागजात मिसल संलग्न है।

अतः इस नोटिस इशतहार राजपत्र हिमाचल प्रदेश व मुन्त्री मुनादी चस्पांगी के माध्यम से आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि अगर किसी को उपरोक्त नाम दुरुस्ती बारे कोई उजर व एतराज हो तो दिनांक पेशी 25-07-2022 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन अपना एतराज अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर पेश कर सकता है अन्यथा उपरोक्त नाम दुरुस्ती करने के आदेश दे दिए जाएंगे उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 22-06-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।
मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
ऊना, जिला ऊना (हि0प्र0)।

ब अदालत जनाब सहायक समाहर्ता द्वितीय श्रेणी ऊना, जिला ऊना (हि0प्र0)

मिसल नं0 : 1/8/NT/2022

किस्म मुकद्दमा : नाम दुरुस्ती

तारीख पेशी : 25-7-2022

श्री रणशीश कुमार पुत्र श्री वलराम, निवासी गांव व डा0 टक्का, तहसील व जिला ऊना (हि0प्र0)

वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना-पत्र.-नाम दुरुस्ती प्रार्थी श्री वशिष्ठ लाल पुत्र श्री वलराम, निवासी गांव व डा0 टक्का, तहसील व जिला ऊना (हि0प्र0)

प्रार्थना-पत्र नाम दुरुस्ती प्रार्थी श्री वशिष्ठ लाल पुत्र श्री वलराम, निवासी गांव व डा0 टक्का, तहसील व जिला ऊना (हि0प्र0) ने इस अदालत में प्रार्थना-पत्र दायर किया है कि उसका नाम राजस्व अभिलेख उप-महाल रामनगर में रणशीश कुमार दर्ज है जबकि उसका सही नाम वशिष्ठ लाल है लिहाजा इसे दुरुस्त करके रणशीश कुमार उर्फ वशिष्ठ लाल किया जाए, शपथ-पत्र, आधार कार्ड, वोटर कार्ड, नकल जमाबन्दी 2020-21 उपमहाल रामनगर तथा अन्य कागजात मिसल संलग्न है।

अतः इस नोटिस इशतहार राजपत्र हिमाचल प्रदेश व मुन्त्री मुनादी चस्पांगी के माध्यम से आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि अगर किसी को उपरोक्त नाम दुरुस्ती बारे कोई उजर व एतराज हो तो तारीख पेशी 25-07-2022 को सुबह 10 बजे इस न्यायालय में असालतन या वकालतन अपना एतराज अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर पेश कर सकता है अन्यथा उपरोक्त नाम दुरुस्ती करने के आदेश दे दिए जाएंगे उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 22-06-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।
मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
ऊना, जिला ऊना (हि0प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, ईसपुर, जिला ऊना (हि0प्र0)

इशतहार मुन्त्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल पंजावर की जमाबन्दी 2016-17 कुन्ती देवी पत्नी स्व0 श्री रोशन लाल पुत्र जगता की बजाये कुन्ती देवी पत्नी स्व0 श्री रोशन लाल पुत्र काहडू दर्ज करने बारे।

बनाम

आम जनता

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थिया कुन्ती देवी पत्नी स्व0 श्री रोशन लाल पुत्र काहडू, वासी पंजावर, तहसील ईसपुर, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसके ससुर का नाम खसरा नं0 2795, 2798, 2802, 2835, 2836, 2841 जमाबन्दी साल 2016-17 में कुन्ती देवी पत्नी रोशन लाल पुत्र जगता सिंह गलत चल रहा है। जबकि उसका सही नाम कुन्ती देवी पत्नी रोशन लाल पुत्र काहडू है। अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 22-07-2022 को प्रातः 10.00 बजे हाजिर आयें।

हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/खैम कर दिया जायेगा।

आज दिनांक 22-06-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।
मोहर।

हस्ताक्षरित/—
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
ईसपुर, जिला ऊना (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, ईसपुर, जिला ऊना (हि0प्र0)

इश्तहार मुश्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल भदसाली हार की जमाबन्दी 2017-18 कुलवीर सिंह पुत्र जगदेव सिंह पुत्र पोहलो की बजाये वलवीर सिंह पुत्र जगदेव सिंह पुत्र पोहलो दर्ज करने बारे।

बनाम

आम जनता

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी वलवीर सिंह पुत्र जगदेव सिंह पुत्र पोहलो, वासी भदसाली, तहसील ईसपुर, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसका नाम खसरा नं0 19, खेवट नं0 17, खतौनी नं0 17, कित्ता महाल भदसाली की जमाबन्दी साल 2017-18 में कुलवीर सिंह पुत्र जगदेव सिंह पुत्र पोहलो सिंह गलत चल रहा है। जबकि उसका सही नाम वलवीर सिंह पुत्र जगदेव सिंह पुत्र पोहलो है। अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असागतन या वकालतन इस न्यायालय में दिनांक 22-07-2022 को प्रातः 10.00 से 5.00 बजे तक हाजिर आयें। हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/खैम कर दिया जायेगा।

आज दिनांक 22-06-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।
मोहर।

हस्ताक्षरित/—
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
ईसपुर, जिला ऊना (हि0 प्र0)।

नाम परिवर्तन

मैं, सर्बजीत कौर गिल पत्नी श्री हरविन्दर गिल, निवासी ढारा समीप स्लॉटर हाऊस, कृष्णा नगर, शिमला, हिमाचल प्रदेश यह घोषणा करती हूं कि कुछ दस्तावेजों में मेरा नाम नंदिनी गिल दर्ज है। भविष्य में इसे सभी उद्देश्यों के लिए सर्बजीत कौर गिल दर्ज किया जाए।

सर्बजीत कौर गिल,
पत्नी श्री हरविन्दर गिल,
निवासी ढारा समीप स्लॉटर हाऊस,
कृष्णा नगर, शिमला, हिमाचल प्रदेश।

**हिमाचल प्रदेश सरकार
"निर्वाचन विभाग"**

अधिसूचना

दिनांक: शिमला-171009, 05 जुलाई, 2022

संख्या 3-1/2022-ई.एल.एन.-I.—उप-राष्ट्रपतीय निर्वाचन, 2022 के लिए नियुक्त रिटर्निंग ऑफिसर और महासचिव, लोक सभा द्वारा जारी निर्वाचन की लोक सूचना दिनांक 05 जुलाई, 2022 को अंग्रेजी रूपान्तर सहित जनसाधारण की सूचना हेतु प्रकाशित किया जाता है।

आदेश से,
मनीष गर्ग,
मुख्य निर्वाचन अधिकारी, हिमाचल प्रदेश।

**लोक सभा सचिवालय
उपराष्ट्रपतीय निर्वाचन, 2022 के लिए
रिटर्निंग आफिसर का कार्यालय**

भारत के उपराष्ट्रपति पद के लिए निर्वाचन की लोक सूचना

भारत के उपराष्ट्रपति पद को भरने के लिए निर्वाचन करने के लिए, निर्वाचन आयोग द्वारा राष्ट्रपतीय और उपराष्ट्रपतीय निर्वाचन अधिनियम, 1952 की धारा 4 की उपधारा (1) के अधीन अधिसूचना निकाल दी गई है, अतः ऐसे निर्वाचन के लिए रिटर्निंग आफिसर, मैं उत्पल कुमार सिंह, सूचना देता हूँ कि –

- (i) अभ्यर्थी या उसके प्रस्थापकों या समर्थकों में से किसी एक द्वारा नामनिर्देशन-पत्र निम्न हस्ताक्षरकर्ता को कमरा नं. 18, भू-तल, संसद भवन, नई दिल्ली में उसके कार्यालय में या यदि वह अपरिवर्जनीय रूप से अनुपस्थित हो, तो सहायक रिटर्निंग आफिसर, श्री पी. सी. त्रिपाठी, संयुक्त सचिव, लोक सभा सचिवालय अथवा श्री राजू श्रीवास्तव, निदेशक, लोक सभा सचिवालय को उक्त कार्यालय में **19 जुलाई, 2022** के अनुपरान्त (लोक अवकाश – दिन से भिन्न) किसी दिन **पूर्वाह्न 11 बजे और अपराह्न 3 बजे** के बीच परिदत्त किए जा सकेंगे;
- (ii) हर एक नामनिर्देशन पत्र के साथ उस संसदीय निर्वाचन-क्षेत्र की निर्वाचक नामावली में अभ्यर्थी से सम्बद्ध प्रविष्टि की एक प्रमाणित प्रति लगाई जाएगी जिसमें अभ्यर्थी निर्वाचक के रूप में रजिस्ट्रीकृत है;
- (iii) हर अभ्यर्थी केवल पन्द्रह हजार रूपए की राशि जमा करेगा या जमा करवायेगा। यह रकम नामनिर्देशन पत्र प्रस्तुत करते समय रिटर्निंग आफिसर के पास नकद जमा की जा सकेगी या भारतीय रिजर्व बैंक या किसी सरकारी खजाने में इससे पहले जमा की जा सकेगी और पश्चात्कथित दशा में ऐसी रसीद का, जिसमें यह दर्शित किया गया हो कि उक्त राशि जमा कर दी गई है, नामनिर्देशन पत्र के साथ लगाया जाना आवश्यक होगा;
- (iv) नामनिर्देशन पत्रों के प्ररूप पूर्वोक्त कार्यालय से पूर्वोक्त समय पर प्राप्त किए जा सकेंगे;
- (v) अधिनियम की धारा 5ख की उपधारा (4) के अधीन नामजूर किए गए नामनिर्देशन पत्रों से भिन्न नामनिर्देशन पत्रों की संवीक्षा कमरा नं. 62, प्रथम तल, संसद भवन, नई दिल्ली में **बुधवार, 20 जुलाई, 2022** को **पूर्वाह्न 11 बजे** की जाएगी;
- (vi) अभ्यर्थिता वापस लेने की सूचना अभ्यर्थी, या उसके प्रस्थापकों या समर्थकों में से किसी एक द्वारा जो अभ्यर्थी द्वारा लिखित रूप से इस निमित्त प्राधिकृत किया गया हो, निम्न हस्ताक्षरकर्ता को, उपरोक्त पैरा (i) में विनिर्दिष्ट स्थान में **22 जुलाई, 2022** को **अपराह्न 3 बजे से पहले** परिदत्त की जा सकेगी;
- (vii) निर्वाचन लड़े जाने की दशा में मतदान, इन नियमों के अधीन नियत किए गए मतदान के स्थान में **शनिवार, 6 अगस्त, 2022** को **पूर्वाह्न 10.00 बजे से अपराह्न 5.00 बजे** के बीच होगा।

नई दिल्ली;
दिनांक 5 जुलाई, 2022

(उत्पल कुमार सिंह),
उप-राष्ट्रपतीय निर्वाचन, 2022
के लिए रिटर्निंग आफिसर
और महासचिव, लोक सभा।

**LOK SABHA SECRETARIAT
OFFICE OF THE RETURNING OFFICER
FOR VICE-PRESIDENTIAL ELECTION, 2022
PUBLIC NOTICE
OF
ELECTION TO THE OFFICE OF VICE-PRESIDENT OF INDIA**

WHEREAS a notification under sub-section (1) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952, for the holding of an election to fill the office of Vice-President of India has been issued by the Election Commission, I, Utpal Kumar Singh, the Returning Officer for such election, do hereby give notice that-

- (i) nomination papers may be delivered by a candidate or any one of his proposers or seconders to the undersigned at his office in Room No. 18, Ground Floor, Parliament House, New Delhi, or if he is unavoidably absent, to the Assistant Returning Officers, Shri P.C. Tripathy, Joint Secretary, Lok Sabha Secretariat or Shri Raju Srivastava, Director, Lok Sabha Secretariat at the said office between 11 A.M. and 3 P.M. on any day (other than a public holiday) not later than the **19th July, 2022**;
- (ii) each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the Parliamentary constituency in which the candidate is registered as an elector;
- (iii) every candidate shall deposit or cause to be deposited a sum of rupees fifteen thousand only. This amount may be deposited in cash with the Returning Officer at the time of presentation of the nomination paper or deposited earlier in the Reserve Bank of India or in a Government Treasury and in the latter case a receipt showing that the said deposit of the sum has been so made is required to be enclosed with the nomination paper;
- (iv) forms of nomination papers may be obtained from the above said office at the times aforesaid;
- (v) the nomination papers, other than those rejected under sub-section (4) of section 5B of the Act, will be taken up for scrutiny at Room No. 62, First Floor, Parliament House, New Delhi on **Wednesday, the 20th July, 2022 at 11 A.M. ;**
- (vi) the notice of withdrawal of candidatures may be delivered by a candidate, or any one of his proposers or seconders who has been authorized in this behalf in writing by the candidate, to the undersigned at the place specified in paragraph (i) above before **three o'clock in the afternoon of 22nd July, 2022**;

(vii) in the event of the election being contested, the poll will be taken on **Saturday, the 6th August, 2022** between the hours of **10 A.M. and 5 P.M.** at the place of polling fixed under the rules.

New Delhi;
Dated the 5th July, 2022

(UTPAL KUMAR SINGH)
RETURNING OFFICER FOR
THE VICE-PRESIDENTIAL
ELECTION-2022
AND SECRETARY-GENERAL, LOK SABHA.



राज्य निर्वाचन आयोग हिमाचल प्रदेश

STATE ELECTION COMMISSION HIMACHAL PRADESH

आर्मसडेल, शिमला-171002 Armsdale, Shimla-171002 Tel. 0177-2620152, 2620159, 2620154, Email: secysec-hp@nic.in

NOTIFICATION

dated, the 5th July, 2022

No. SEC(F)1-28/2021-2126-45.—Whereas the State Election Commission *vide* its Notification No. SEC(F) 2-3/2020-I-717-730 dated 10th March, 2022 has published 41 wards in respect of Municipal Corporation Shimla in the Official Gazette of Himachal Pradesh;

And whereas two C.W.Ps No. 1391 and 1442 of 2022 were filed in the Hon'ble High Court wherein delimitation of five wards *i.e.* 6-Summerhill, 9-Boileauganj, 11-Tutikandi, 12-Nabha and 13-Phagli was challenged before the Hon'ble High Court of Himachal Pradesh;

And whereas Hon'ble High Court *vide* its order dated 3rd June, 2022 has directed the Deputy Commissioner Shimla to dispose of the objections moved by the petitioners *qua* these wards afresh in accordance with law;
And whereas the matter with regard to delimitation of above mentioned five wards is still under consideration of the competent authorities;

Therefore, the State Election Commission in exercise of the powers vested in it under Article 243ZA of the Constitution of India, Section 9 of the HP Municipal Corporation Act, 1994 read with Rule 14 of the HP Municipal Corporation Election Rules, 2012 hereby issues the following schedule for preparation of polling station wise electoral rolls in respect of remaining 36 wards of Municipal Corporation Shimla:—

1.	Draft publication of electoral rolls	On 06-07-2022
2.	Period for filing claims and objections before Revising Authorities	07-07-2022 to 16-07-2022
3.	Period for deciding claims and objections by Revising Authorities	Within ten days from the filing of claims and objections
4.	Period for filing appeals before the Electoral Registration Officers	Within three days from the order passed by the Revising Authorities
5.	Period for deciding appeals by the Electoral Registration Officers	On or before 05 th August, 2022
6.	Final Publication of electoral rolls	On or before 8 th August, 2022

Further the State Election Commission hereby notifies **1st July, 2022** as qualifying date to determine the eligibility of an elector for registration in the electoral roll as required under Rule 16 (e) of the HP Municipal Corporation Election Rules, 2012.

The Claims and Objections will have to be filed before the Revising Authorities appointed under Rule 19 of the rule *ibid* by the Electoral Registration Officers. The application of claims and objections will be filed by the person individually or sent by registered post or by a person authorised by him in writing on this behalf. After the claims/objections and appeals received during the period have been decided, the Electoral Registration Officers as the case may be, shall cause the Draft Electoral Rolls to be corrected through ERMS software in accordance with the orders passed by the Revising/Appellant Authorities.

Thereafter, the Electoral Registration Officers shall issue notice of final publication of Electoral Rolls as per programme notified by the Commission. The finally published electoral rolls shall be uploaded on the official website of the Commission.

As soon as the notice of final publication is issued by the Electoral Registration Officers, the intimation of the same may be sent to the Commission immediately through E-mail followed by confirmation by post. Thereafter, **Fifteen copies** of the electoral roll shall be printed in respect of each polling station at Govt. Printing Press Shimla-5. You will supply printing material in soft copy form to the Controller, Printing & Stationery Department. The soft copy of finalized electoral roll should be kept in the record alongwith one hard copy duly authenticated by the Electoral Registration Officer. Any person may procure electoral rolls from the office of Electoral Registration Officer @ Rs. 10/- per page to be paid in cash against receipt. A complete set of electoral rolls of a ward may be provided.

The relevant provisions of Rules *ibid*, instructions issued by the Commission *vide* above mentioned letter No. SEC(F)1-28/2021-1993, dated 4th June, 2022 and 30th June, 2022 respectively for updation of the said electoral rolls and the timelines stipulated to be adhered to strictly.

Kindly acknowledge receipt and pay personal attention.

By order,
Sd/-

(ANIL KHACHI),

State Election Commissioner, Himachal Pradesh.

नियन्त्रक, मुद्रण तथा लेखन सामग्री, हिमाचल प्रदेश, शिमला-5 द्वारा मुद्रित तथा प्रकाशित
इलेक्ट्रॉनिक हस्ताक्षरित राजपत्र, वेबसाइट <http://rajpatrahimachal.nic.in> पर उपलब्ध है एवम् ऑनलाइन सत्यापित किया जा सकता है।